

By the Committee on Insurance and Representatives Waters,  
Melvin, Brown, Berfield, Kallinger, McGriff, Clarke, Simmons,  
Sobel, Ross, Negrón, Fields and Wiles

1                                   A bill to be entitled  
2           An act relating to workers' compensation;  
3           amending s. 61.14, F.S.; requiring judges of  
4           compensation claims to consider the interests  
5           of the worker and the worker's dependents when  
6           approving settlements of workers' compensation  
7           claims; requiring appropriate recovery of any  
8           child support arrearage from such settlements;  
9           amending s. 61.30, F.S.; providing that gross  
10          income includes all workers' compensation  
11          benefits and settlements; amending s. 440.02,  
12          F.S.; revising a monetary limit in a  
13          definition; excluding certain sports officials  
14          from the definition of "employee"; excluding  
15          certain work done by state prisoners and county  
16          inmates from the definition of "employment";  
17          amending s. 440.09, F.S.; excluding employees  
18          covered under the Defense Base Act from payment  
19          of benefits; amending s. 440.12, F.S.;  
20          providing for direct deposit of compensation  
21          payments; amending s. 440.13, F.S.; deleting a  
22          physician eligibility requirement; revising  
23          requirements for submission of certain medical  
24          reports and bills; granting rehabilitation  
25          providers access to medical records; amending  
26          s. 440.14, F.S.; providing criteria for  
27          including lost wages from concurrent employment  
28          in determinations of pay; amending s. 440.185,  
29          F.S.; authorizing the division to contract with  
30          a private entity for collection of certain  
31          policy information; providing application;

1           amending s. 440.192, F.S.; revising  
2           requirements and procedures for filing  
3           petitions for benefits; authorizing the  
4           division to adopt a petition for benefits form  
5           by rule; permitting judges to dismiss portions  
6           of a petition; specifying that dismissal of  
7           petitions is without prejudice; providing for a  
8           response to petition instead of a notice of  
9           denial for certain purposes; amending s.  
10          440.20, F.S.; providing for payment of  
11          compensation by direct deposit under certain  
12          circumstances; revising the period for payment;  
13          revising lump-sum settlement requirements;  
14          amending s. 440.22, F.S.; excluding child  
15          support and alimony claims from general  
16          exemption of workers' compensation benefits  
17          from claims of creditors; amending s. 440.25,  
18          F.S.; revising mediation procedures; deleting  
19          participation by the Division of Workers'  
20          Compensation in certain indigency petitions;  
21          amending s. 440.271, F.S.; requiring the First  
22          District Court of Appeal to establish a  
23          specialized division to hear workers'  
24          compensation cases; amending s. 440.34, F.S.;  
25          including responses to petitions under certain  
26          attorney's fees provisions and limitations;  
27          amending s. 440.38, F.S.; providing for the  
28          type of qualifying security deposit necessary  
29          to become a self-insured employer; providing  
30          requirements, procedures, and criteria;  
31          correcting a cross reference; amending s.

1 440.45, F.S.; requiring the judicial nominating  
2 commission to consider whether judges of  
3 compensation claims have met certain  
4 requirements; providing procedures; authorizing  
5 the Governor to appoint certain judges of  
6 compensation claims; requiring the Office of  
7 the Judges of Compensation Claims to adopt  
8 certain additional rules; providing additional  
9 criteria for such rules; amending s. 440.593,  
10 F.S.; providing the division with enforcement  
11 authority relating to electronic reporting;  
12 authorizing the division to impose a civil  
13 penalty; authorizing the division to adopt  
14 rules; amending ss. 489.114 and 489.510, F.S.;  
15 providing an exception to certain workers'  
16 compensation coverage evidence requirements;  
17 amending ss. 489.115 and 489.515, F.S.;  
18 revising certification and registration  
19 requirements for initial licensure; amending s.  
20 627.311, F.S.; clarifying language with respect  
21 to joint underwriters' liability for monetary  
22 damages; amending s. 627.914, F.S.; revising  
23 the requirements for reports of information by  
24 workers' compensation insurers; deleting a  
25 reporting requirement for the Division of  
26 Workers' Compensation; amending s. 440.49,  
27 F.S., to conform; repealing s. 440.45(3), F.S.,  
28 relating to judges of compensation claims  
29 serving as docketing judges; repealing s.  
30 440.49(2)(f) and (g), (13), and (14), F.S.,  
31 relating to the Special Disability Trust Fund

1 Privatization Commission and the Florida  
2 Special Disability Trust Fund Financing  
3 Corporation; repealing s. 440.59(2), F.S.,  
4 relating to required quarterly reports;  
5 providing effective dates.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

9 Section 1. Subsection (8) of section 61.14, Florida  
10 Statutes, is amended to read:

11 61.14 Enforcement and modification of support,  
12 maintenance, or alimony agreements or orders.--

13 (8)(a) When reviewing a lump-sum settlement for  
14 approval pursuant to s. 440.20(11)(a) and (b), judges of  
15 compensation claims shall consider the interests of the  
16 claimant and the claimant's dependents when approving the  
17 settlement. The settlement must provide for appropriate  
18 recovery of child support arrearage.

19 (b) In accordance with ~~Notwithstanding~~ the provisions  
20 of s. 440.22, any compensation due or that may become due an  
21 employee under chapter 440 is exempt from garnishment,  
22 attachment, execution, and assignment of income, except for  
23 the purposes of enforcing child or spousal support  
24 obligations.

25 Section 2. Paragraph (a) of subsection (2) of section  
26 61.30, Florida Statutes, is amended to read:

27 61.30 Child support guidelines; retroactive child  
28 support.--

29 (2) Income shall be determined on a monthly basis for  
30 the obligor and for the obligee as follows:  
31

- 1           (a) Gross income shall include, but is not limited to,  
2 the following items:
- 3           1. Salary or wages.
  - 4           2. Bonuses, commissions, allowances, overtime, tips,  
5 and other similar payments.
  - 6           3. Business income from sources such as  
7 self-employment, partnership, close corporations, and  
8 independent contracts. "Business income" means gross receipts  
9 minus ordinary and necessary expenses required to produce  
10 income.
  - 11           4. Disability benefits.
  - 12           5. All workers'~~worker's~~ compensation benefits and  
13 settlements.
  - 14           6. Unemployment compensation.
  - 15           7. Pension, retirement, or annuity payments.
  - 16           8. Social security benefits.
  - 17           9. Spousal support received from a previous marriage  
18 or court ordered in the marriage before the court.
  - 19           10. Interest and dividends.
  - 20           11. Rental income, which is gross receipts minus  
21 ordinary and necessary expenses required to produce the  
22 income.
  - 23           12. Income from royalties, trusts, or estates.
  - 24           13. Reimbursed expenses or in kind payments to the  
25 extent that they reduce living expenses.
  - 26           14. Gains derived from dealings in property, unless  
27 the gain is nonrecurring.
- 28           Section 3. Subsection (4), paragraph (d) of subsection  
29 (14), and paragraph (c) of subsection (16) of section 440.02,  
30 Florida Statutes, are amended to read:  
31

1           440.02 Definitions.--When used in this chapter, unless  
2 the context clearly requires otherwise, the following terms  
3 shall have the following meanings:

4           (4) "Casual" as used in this section shall be taken to  
5 refer only to employments when the work contemplated is to be  
6 completed in not exceeding 10 working days, without regard to  
7 the number of persons employed, and when the total labor cost  
8 of such work is less than \$500~~\$100~~.

9           (14)

10          (d) "Employee" does not include:

11           1. An independent contractor, if:

12           a. The independent contractor maintains a separate  
13 business with his or her own work facility, truck, equipment,  
14 materials, or similar accommodations;

15           b. The independent contractor holds or has applied for  
16 a federal employer identification number, unless the  
17 independent contractor is a sole proprietor who is not  
18 required to obtain a federal employer identification number  
19 under state or federal requirements;

20           c. The independent contractor performs or agrees to  
21 perform specific services or work for specific amounts of  
22 money and controls the means of performing the services or  
23 work;

24           d. The independent contractor incurs the principal  
25 expenses related to the service or work that he or she  
26 performs or agrees to perform;

27           e. The independent contractor is responsible for the  
28 satisfactory completion of work or services that he or she  
29 performs or agrees to perform and is or could be held liable  
30 for a failure to complete the work or services;

31

1           f. The independent contractor receives compensation  
2 for work or services performed for a commission or on a  
3 per-job or competitive-bid basis and not on any other basis;

4           g. The independent contractor may realize a profit or  
5 suffer a loss in connection with performing work or services;

6           h. The independent contractor has continuing or  
7 recurring business liabilities or obligations; and

8           i. The success or failure of the independent  
9 contractor's business depends on the relationship of business  
10 receipts to expenditures.

11  
12 However, the determination as to whether an individual  
13 included in the Standard Industrial Classification Manual of  
14 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,  
15 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,  
16 2448, or 2449, or a newspaper delivery person, is an  
17 independent contractor is governed not by the criteria in this  
18 paragraph but by common-law principles, giving due  
19 consideration to the business activity of the individual.

20           2. A real estate salesperson or agent, if that person  
21 agrees, in writing, to perform for remuneration solely by way  
22 of commission.

23           3. Bands, orchestras, and musical and theatrical  
24 performers, including disk jockeys, performing in licensed  
25 premises as defined in chapter 562, if a written contract  
26 evidencing an independent contractor relationship is entered  
27 into before the commencement of such entertainment.

28           4. An owner-operator of a motor vehicle who transports  
29 property under a written contract with a motor carrier which  
30 evidences a relationship by which the owner-operator assumes  
31 the responsibility of an employer for the performance of the

1 contract, if the owner-operator is required to furnish the  
2 necessary motor vehicle equipment and all costs incidental to  
3 the performance of the contract, including, but not limited  
4 to, fuel, taxes, licenses, repairs, and hired help; and the  
5 owner-operator is paid a commission for transportation service  
6 and is not paid by the hour or on some other time-measured  
7 basis.

8           5. A person whose employment is both casual and not in  
9 the course of the trade, business, profession, or occupation  
10 of the employer.

11           6. A volunteer, except a volunteer worker for the  
12 state or a county, municipality, or other governmental entity.  
13 A person who does not receive monetary remuneration for  
14 services is presumed to be a volunteer unless there is  
15 substantial evidence that a valuable consideration was  
16 intended by both employer and employee. For purposes of this  
17 chapter, the term "volunteer" includes, but is not limited to:

18           a. Persons who serve in private nonprofit agencies and  
19 who receive no compensation other than expenses in an amount  
20 less than or equivalent to the standard mileage and per diem  
21 expenses provided to salaried employees in the same agency or,  
22 if such agency does not have salaried employees who receive  
23 mileage and per diem, then such volunteers who receive no  
24 compensation other than expenses in an amount less than or  
25 equivalent to the customary mileage and per diem paid to  
26 salaried workers in the community as determined by the  
27 division; and

28           b. Volunteers participating in federal programs  
29 established under Pub. L. No. 93-113.

30           7. Any officer of a corporation who elects to be  
31 exempt from this chapter.



1           8. A sole proprietor or officer of a corporation who  
2 actively engages in the construction industry, and a partner  
3 in a partnership that is actively engaged in the construction  
4 industry, who elects to be exempt from the provisions of this  
5 chapter. Such sole proprietor, officer, or partner is not an  
6 employee for any reason until the notice of revocation of  
7 election filed pursuant to s. 440.05 is effective.

8           9. An exercise rider who does not work for a single  
9 horse farm or breeder, and who is compensated for riding on a  
10 case-by-case basis, provided a written contract is entered  
11 into prior to the commencement of such activity which  
12 evidences that an employee/employer relationship does not  
13 exist.

14           10. A taxicab, limousine, or other passenger  
15 vehicle-for-hire driver who operates said vehicles pursuant to  
16 a written agreement with a company which provides any  
17 dispatch, marketing, insurance, communications, or other  
18 services under which the driver and any fees or charges paid  
19 by the driver to the company for such services are not  
20 conditioned upon, or expressed as a proportion of, fare  
21 revenues.

22           11. A person who performs services as a sports  
23 official for an extracurricular interscholastic sports event.  
24 For purposes of this subparagraph, the term "sports official"  
25 means any person who is a neutral participant in a sports  
26 event, including, but not limited to, umpires, referees,  
27 judges, linespersons, scorekeepers, or timekeepers. This  
28 subparagraph does not apply to any person employed by a school  
29 board who serves as a sports official as required by the  
30 employing school board or who serves as a sports official as  
31

1 part of his or her responsibilities during normal school  
2 hours.

3 (16)

4 (c) "Employment" does not include service performed by  
5 or as:

6 1. Domestic servants in private homes.

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

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

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

24 5. State prisoners or county inmates, except those  
25 performing services for private employers or those enumerated  
26 in s. 948.03(8)(a).

27 Section 4. Subsection (2) of section 440.09, Florida  
28 Statutes, is amended to read:

29 440.09 Coverage.--

30 (2) Benefits are not payable in respect of the  
31 disability or death of any employee covered by the Federal

1 Employer's Liability Act, the Longshoremen's and Harbor  
2 Worker's Compensation Act, the Defense Base Act, or the Jones  
3 Act.

4 Section 5. Subsection (1) of section 440.12, Florida  
5 Statutes, is amended to read:

6 440.12 Time for commencement and limits on weekly rate  
7 of compensation.--

8 (1) No compensation shall be allowed for the first 7  
9 days of the disability, except benefits provided for in s.  
10 440.13. However, if the injury results in disability of more  
11 than 21 days, compensation shall be allowed from the  
12 commencement of the disability. All weekly compensation  
13 payments, except for the first payment, shall be paid by check  
14 or, if authorized by the employee, deposited directly into the  
15 employee's account at a financial institution. For purposes of  
16 this subsection, the term "financial institution" means a  
17 financial institution as defined in s. 655.005(1)(h).

18 Section 6. Paragraph (a) of subsection (3) and  
19 paragraphs (b) and (c) of subsection (4) of section 440.13,  
20 Florida Statutes, are amended to read:

21 440.13 Medical services and supplies; penalty for  
22 violations; limitations.--

23 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

24 (a) As a condition to eligibility for payment under  
25 this chapter, a health care provider who renders services must  
26 be a certified health care provider and must receive  
27 authorization from the carrier before providing treatment.  
28 This paragraph does not apply to emergency care. The division  
29 shall adopt rules to implement the certification of health  
30 care providers. ~~As a one-time prerequisite to obtaining~~  
31 ~~certification, the division shall require each physician to~~

1 ~~demonstrate proof of completion of a minimum 5-hour course~~  
2 ~~that covers the subject areas of cost containment, utilization~~  
3 ~~control, ergonomics, and the practice parameters adopted by~~  
4 ~~the division governing the physician's field of practice. The~~  
5 ~~division shall coordinate with the Agency for Health Care~~  
6 ~~Administration, the Florida Medical Association, the Florida~~  
7 ~~Osteopathic Medical Association, the Florida Chiropractic~~  
8 ~~Association, the Florida Podiatric Medical Association, the~~  
9 ~~Florida Optometric Association, the Florida Dental~~  
10 ~~Association, and other health professional organizations and~~  
11 ~~their respective boards as deemed necessary by the Agency for~~  
12 ~~Health Care Administration in complying with this subsection.~~  
13 ~~No later than October 1, 1994, the division shall adopt rules~~  
14 ~~regarding the criteria and procedures for approval of courses~~  
15 ~~and the filing of proof of completion by the physicians.~~

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

18 (b) Upon the request of the Division of Workers'  
19 Compensation, each medical report or bill obtained or received  
20 by the employer, the carrier, or the injured employee, or the  
21 attorney for the employer, carrier, or injured employee, with  
22 respect to the remedial treatment, or care, or attendance of  
23 the injured employee, including any report of an examination,  
24 diagnosis, or disability evaluation, must be filed with the  
25 Division of Workers' Compensation pursuant to rules adopted by  
26 the division. The health care provider shall also furnish to  
27 the injured employee or to his or her attorney, on demand, a  
28 copy of his or her office chart, records, and reports, and may  
29 charge the injured employee an amount authorized by the  
30 division for the copies. Each such health care provider shall  
31 provide to the division ~~any additional~~ information about the

1 remedial treatment, care, and attendance that the division  
2 reasonably requests.

3 (c) It is the policy for the administration of the  
4 workers' compensation system that there be reasonable access  
5 to medical information by all parties to facilitate the  
6 self-executing features of the law. Notwithstanding the  
7 limitations in s. 456.057 and subject to the limitations in s.  
8 381.004, upon the request of the employer, the carrier, a  
9 qualified rehabilitation provider authorized by the employer  
10 or carrier, or the attorney for the employer or carrier ~~either~~  
11 ~~of them~~, the medical records of an injured employee must be  
12 furnished to those persons and the medical condition of the  
13 injured employee must be discussed with those persons, if the  
14 records and the discussions are restricted to conditions  
15 relating to the workplace injury. Any such discussions may be  
16 held before or after the filing of a claim without the  
17 knowledge, consent, or presence of any other party or his or  
18 her agent or representative. A health care provider who  
19 willfully refuses to provide medical records or to discuss the  
20 medical condition of the injured employee, after a reasonable  
21 request is made for such information pursuant to this  
22 subsection, shall be subject by the division to one or more of  
23 the penalties set forth in paragraph (8)(b).

24 Section 7. Subsection (5) is added to section 440.14,  
25 Florida Statutes, to read:

26 440.14 Determination of pay.--

27 (5)(a) If lost wages from concurrent employment are  
28 used in calculating the employee's average weekly wage, the  
29 employee shall be responsible for providing evidence of the  
30 loss of earnings from the concurrent employment.

31

1       (b) The employee shall be deemed to have waived any  
2 entitlement to interest, penalties, and attorney's fees during  
3 the period in which the employee has not provided information  
4 concerning the loss of earnings from concurrent employment.  
5 Carriers shall not be subject to penalties by the division  
6 pursuant to s. 440.20(8)(b) and (c) for unpaid compensation  
7 related to concurrent employment during the period in which  
8 the employee has not provided information concerning the loss  
9 of earnings from concurrent employment.

10       Section 8. Subsection (7) of section 440.185, Florida  
11 Statutes, is amended to read:

12       440.185 Notice of injury or death; reports; penalties  
13 for violations.--

14       (7) Every carrier shall file with the division within  
15 21 days after the issuance of a policy or contract of  
16 insurance such policy information as the division may require,  
17 including notice of whether the policy is a minimum premium  
18 policy. Notice of cancellation or expiration of a policy as  
19 set out in s. 440.42(3) shall be mailed to the division in  
20 accordance with rules promulgated by the division under  
21 chapter 120. The division may contract with a private entity  
22 for the collection of policy information required to be filed  
23 by carriers pursuant to this subsection and the receipt of  
24 notices of policy cancellation or expiration required to be  
25 filed by carriers pursuant to s. 440.42(3). The submission of  
26 policy information or notices of cancellation or expiration to  
27 the contracted private entity satisfies the filing  
28 requirements of this subsection and s. 440.42(3).

29       Section 9. Subsections (1), (2), (5), and (8) of  
30 section 440.192, Florida Statutes, are amended to read:

31       440.192 Procedure for resolving benefit disputes.--

1           (1) Subject to s. 440.191, any employee who has not  
2 received a benefit to which the employee believes she or he is  
3 entitled under this chapter shall file by certified mail, or  
4 by electronic means approved by the Chief Judge, with the  
5 appropriate local office of the judges of compensation claims  
6 a petition for benefits meeting the requirements of this  
7 section. The division shall inform employees of the location  
8 of the appropriate office of the judges of compensation claims  
9 for purposes of filing a petition for benefits. The employee  
10 shall also serve copies of the petition for benefits by  
11 certified mail, or by electronic means approved by the Chief  
12 Judge, upon the employer, the employer's carrier, and the  
13 division in Tallahassee. The division shall adopt by rule a  
14 standardized petition for benefits form that meets the  
15 requirements of this section. The division shall refer the  
16 petition to the Office of the Judges of Compensation Claims.

17           (2) Upon receipt, the judge ~~Office of the Judges of~~  
18 compensation claims shall review each petition and shall  
19 dismiss each petition or any portion of the petition, upon the  
20 judge's ~~its~~ own motion or upon the motion of any party, that  
21 does not on its face specifically identify or itemize the  
22 following:

23           (a) Name, address, telephone number, and social  
24 security number of the employee.

25           (b) Name, address, and telephone number of the  
26 employer.

27           (c) A detailed description of the injury and cause of  
28 the injury, including the location of the occurrence and the  
29 date or dates of the accident.

30  
31

1 (d) A detailed description of the employee's job, work  
2 responsibilities, and work the employee was performing when  
3 the injury occurred.

4 (e) The time period for which compensation was not  
5 timely provided and the specific classification of the  
6 compensation.

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

10 (g) The specific ~~All~~ travel costs to which the  
11 employee believes she or he is entitled, including dates of  
12 travel and purpose of travel, means of transportation, and  
13 mileage, including the date the request for mileage was filed  
14 with the carrier and a copy of the request.

15 (h) Specific listing of all medical charges alleged  
16 unpaid, including the name and address of the medical  
17 provider, the amounts due, and the specific dates of  
18 treatment.

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

21 (j) Specific explanation of any other disputed issue  
22 that a judge of compensation claims will be called to rule  
23 upon.

24  
25 The dismissal of any petition or portion of a petition under  
26 this section shall be without prejudice and shall not require  
27 a hearing.

28 (5) All motions to dismiss must state with  
29 particularity the basis for the motion. The judge of  
30 compensation claims shall enter an order upon such motions  
31 without hearing, unless good cause for hearing is shown. When



1 any petition or portion of a petition is dismissed for lack of  
2 specificity under this subsection, the claimant must be  
3 allowed 20 days after the date of the order of dismissal in  
4 which to file an amended petition. Any grounds for dismissal  
5 for lack of specificity under this section not asserted within  
6 30 days after receipt of the petition for benefits are thereby  
7 waived.

8 (8) Within 14 days after receipt of a petition for  
9 benefits ~~by certified mail~~, the carrier must either pay the  
10 requested benefits without prejudice to its right to deny  
11 within 120 days from receipt of the petition or file a  
12 response to petition ~~notice of denial~~ with the division. The  
13 carrier must list all benefits requested but not paid and  
14 explain its justification for nonpayment in the response to  
15 petition ~~notice of denial~~. A carrier that does not deny  
16 compensability in accordance with s. 440.20(4) is deemed to  
17 have accepted the employee's injuries as compensable, unless  
18 it can establish material facts relevant to the issue of  
19 compensability that could not have been discovered through  
20 reasonable investigation within the 120-day period. The  
21 carrier shall provide copies of the response ~~notice~~ to the  
22 filing party, employer, and claimant by certified mail.

23 Section 10. Paragraph (a) of subsection (1),  
24 subsection (6), and paragraph (a) of subsection (11) of  
25 section 440.20, Florida Statutes, are amended, and paragraph  
26 (d) is added to subsection (11) of said section, to read:

27 440.20 Time for payment of compensation; penalties for  
28 late payment.--

29 (1)(a) Unless it denies compensability or entitlement  
30 to benefits, the carrier shall pay compensation directly to  
31 the employee as required by ss. 440.14, 440.15, and 440.16, in

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

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

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

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

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

21 (d) When reviewing a lump-sum settlement for approval  
22 pursuant to this subsection, judges of compensation claims  
23 shall consider the interests of the claimant and the  
24 claimant's dependents when approving the settlement. The  
25 settlement must provide for appropriate recovery of child  
26 support arrearage.

27 Section 11. Section 440.22, Florida Statutes, is  
28 amended to read:

29 440.22 Assignment and exemption from claims of  
30 creditors.--No assignment, release, or commutation of  
31 compensation or benefits due or payable under this chapter

1 except as provided by this chapter shall be valid, and such  
2 compensation and benefits shall be exempt from all claims of  
3 creditors, and from levy, execution and attachments or other  
4 remedy for recovery or collection of a debt, which exemption  
5 may not be waived. However, the exemption of compensation and  
6 benefits from the claims of creditors shall not extend to  
7 claims based on an award of child support or alimony.

8 Section 12. Subsection (1) and paragraph (b) of  
9 subsection (5) of section 440.25, Florida Statutes, are  
10 amended to read:

11 440.25 Procedures for mediation and hearings.--

12 (1) Within 21 days after a petition for benefits is  
13 filed under s. 440.192, a mediation conference concerning such  
14 petition shall be held. Within 7 days after such petition is  
15 filed, the judge of compensation claims shall notify the  
16 interested parties that a mediation conference concerning such  
17 petition will be held. Such notice shall give the date, time,  
18 and location of the mediation conference. Such notice may be  
19 served personally upon the interested parties or may be sent  
20 to the interested parties by mail. The claimant, or the  
21 adjuster of the employer or carrier, may attend the mediation  
22 conference by telephone or, if agreed to by the parties, other  
23 electronic means.

24 (5)

25 (b) An appellant may be relieved of any necessary  
26 filing fee by filing a verified petition of indigency for  
27 approval as provided in s. 57.081(1) and may be relieved in  
28 whole or in part from the costs for preparation of the record  
29 on appeal if, within 15 days after the date notice of the  
30 estimated costs for the preparation is served, the appellant  
31 files with the judge of compensation claims a copy of the

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

1 interested party within 20 days from the service date of the  
2 verified petition relating to record costs. Such proceedings  
3 shall be conducted in accordance with the provisions of this  
4 section and with the workers' compensation rules of procedure,  
5 to the extent applicable. In the event an insolvency petition  
6 is granted, the judge of compensation claims shall direct the  
7 division to pay record costs and filing fees from the Workers'  
8 Compensation Trust Fund pending final disposition of the costs  
9 of appeal. The division may transcribe or arrange for the  
10 transcription of the record in any proceeding for which it is  
11 ordered to pay the cost of the record. ~~In the event the~~  
12 ~~insolvency petition is denied, the judge of compensation~~  
13 ~~claims may enter an order requiring the petitioner to~~  
14 ~~reimburse the division for costs incurred in opposing the~~  
15 ~~petition, including investigation and travel expenses.~~

16 Section 13. Section 440.271, Florida Statutes, is  
17 amended to read:

18 440.271 Appeal of order of judge of compensation  
19 claims.--Review of any order of a judge of compensation claims  
20 entered pursuant to this chapter shall be by appeal to the  
21 District Court of Appeal, First District. To promote  
22 consistency and uniformity in the application of this chapter,  
23 the District Court of Appeal, First District, shall establish  
24 a specialized division to hear all appeals of orders of judges  
25 of compensation claims. The court may structure the division  
26 to hear workers' compensation cases exclusively or in addition  
27 to other appeals. Appeals shall be filed in accordance with  
28 rules of procedure prescribed by the Supreme Court for review  
29 of such orders. The division shall be given notice of any  
30 proceedings pertaining to s. 440.25, regarding indigency, or  
31

1 s. 440.49, regarding the Special Disability Trust Fund, and  
2 shall have the right to intervene in any proceedings.

3 Section 14. Paragraph (b) of subsection (3) of section  
4 440.34, Florida Statutes, is amended to read:

5 440.34 Attorney's fees; costs.--

6 (3) If the claimant should prevail in any proceedings  
7 before a judge of compensation claims or court, there shall be  
8 taxed against the employer the reasonable costs of such  
9 proceedings, not to include the attorney's fees of the  
10 claimant. A claimant shall be responsible for the payment of  
11 her or his own attorney's fees, except that a claimant shall  
12 be entitled to recover a reasonable attorney's fee from a  
13 carrier or employer:

14 (b) In any case in which the employer or carrier files  
15 a notice of denial or response to petition with the division  
16 and the injured person has employed an attorney in the  
17 successful prosecution of the claim; or

18  
19 In applying the factors set forth in subsection (1) to cases  
20 arising under paragraphs (a), (b), (c), and (d), the judge of  
21 compensation claims must only consider only such benefits and  
22 the time reasonably spent in obtaining them as were secured  
23 for the claimant within the scope of paragraphs (a), (b), (c),  
24 and (d).

25 Section 15. Paragraphs (b) and (c) of subsection (1)  
26 of section 440.38, Florida Statutes, are amended to read:

27 440.38 Security for compensation; insurance carriers  
28 and self-insurers.--

29 (1) Every employer shall secure the payment of  
30 compensation under this chapter:

31



1 (b) By furnishing satisfactory proof to the division  
2 of its financial ability to pay such compensation individually  
3 and on behalf of its subsidiary and affiliated companies with  
4 employees in this state and receiving an authorization from  
5 the division to pay such compensation directly in accordance  
6 with the following provisions:

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

1 Any employer securing compensation in accordance with the  
2 provisions of this paragraph shall be known as a self-insurer  
3 and shall be classed as a carrier of her or his own insurance.  
4         2. If the employer fails to maintain the foregoing  
5 requirements, the division shall revoke the employer's  
6 authority to self-insure, unless the employer provides to the  
7 division the certified opinion of an independent actuary who  
8 is a member of the American Society of Actuaries as to the  
9 actuarial present value of the employer's determined and  
10 estimated future compensation payments based on cash reserves,  
11 using a 4-percent discount rate, and a qualifying security  
12 deposit equal to 1.5 times the value so certified. The  
13 employer shall thereafter annually provide such a certified  
14 opinion until such time as the employer meets the requirements  
15 of subparagraph 1. The qualifying security deposit shall be  
16 adjusted at the time of each such annual report. Upon the  
17 failure of the employer to timely provide such opinion or to  
18 timely provide a security deposit in an amount equal to 1.5  
19 times the value certified in the latest opinion, the division  
20 shall then revoke such employer's authorization to  
21 self-insure, and such failure shall be deemed to constitute an  
22 immediate serious danger to the public health, safety, or  
23 welfare sufficient to justify the summary suspension of the  
24 employer's authorization to self-insure pursuant to s. 120.68.  
25         3. Upon the suspension or revocation of the employer's  
26 authorization to self-insure, the employer shall provide to  
27 the division and to the Florida Self-Insurers Guaranty  
28 Association, Incorporated, created pursuant to s. 440.385 the  
29 certified opinion of an independent actuary who is a member of  
30 the American Society of Actuaries of the actuarial present  
31 value of the determined and estimated future compensation

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

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

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

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

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

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

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

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

11 5. The qualifying security deposit shall be held by  
12 the division, ~~or by a depository authorized by the division,~~  
13 exclusively for the benefit of workers' compensation  
14 claimants. The security shall not be subject to assignment,  
15 execution, attachment, or any legal process whatsoever, except  
16 as necessary to guarantee the payment of compensation under  
17 this chapter. No surety bond may be terminated, and no letter  
18 of credit ~~other qualifying security~~ may be allowed to expire  
19 ~~lapse~~, without 90 days' prior notice to the division and  
20 deposit by the self-insuring employer of some other qualifying  
21 security deposit of equal value within 10 business days after  
22 such notice. Failure to provide such notice or failure to  
23 timely provide qualifying replacement security after such  
24 notice shall constitute grounds for the division to call or  
25 sue upon the surety bond, or to ~~act with respect to other~~  
26 ~~pledged security in any manner necessary to preserve its value~~  
27 ~~for the purposes intended by this section, including the~~  
28 ~~exercise its of~~ rights under a letter of credit. Current  
29 self-insured employers shall comply with this section on or  
30 before December 31, 2001, or upon maturity of existing  
31 security deposits, whichever occurs later, ~~the sale of any~~

1 ~~security at then prevailing market rates, or the withdrawal of~~  
2 ~~any funds represented by any certificate of deposit forming~~  
3 ~~part of the qualifying security deposit.~~ The division may  
4 specify by rule the amount of the qualifying security deposit  
5 required prior to authorizing an employer to self-insure and  
6 the amount of net worth required for an employer to qualify  
7 for authorization to self-insure;

8 (c) By entering into a contract with a public utility  
9 under an approved utility-provided self-insurance program as  
10 set forth in s. 624.46225 ~~440.571~~ in effect as of July 1,  
11 1983. The division shall adopt rules to implement this  
12 paragraph;

13 Section 16. Paragraph (c) of subsection (2) of section  
14 440.45, Florida Statutes, is amended, paragraph (d) is added  
15 to said subsection, and subsection (5) of said section is  
16 amended, to read:

17 440.45 Office of the Judges of Compensation Claims.--

18 (2)

19 (c) Each judge of compensation claims shall be  
20 appointed for a term of 4 years, but during the term of office  
21 may be removed by the Governor for cause. Prior to the  
22 expiration of a judge's term of office, the statewide  
23 nominating commission shall review the judge's conduct and  
24 determine whether the judge's performance is satisfactory.  
25 Effective January 1, 2002, in determining whether a judge's  
26 performance is satisfactory, the commission shall consider the  
27 extent to which the judge has met the requirements of this  
28 chapter, including, but not limited to, the requirements of  
29 ss. 440.192(2), 440.25(1) and (4)(a)-(f), 440.34(2), and  
30 440.442. If the commission finds that judges generally are  
31 unable to meet a particular statutory requirement for reasons

1 beyond their control, the commission shall request the  
2 Legislature to review that particular requirement. If the  
3 judge's performance is deemed satisfactory, the commission  
4 shall report its finding to the Governor no later than 6  
5 months prior to the expiration of the judge's term of office.  
6 The Governor shall review the commission's report and may  
7 reappoint the judge for an additional 4-year term. If the  
8 Governor does not reappoint the judge, the Governor shall  
9 inform the commission. The judge shall remain in office until  
10 the Governor has appointed a successor judge in accordance  
11 with paragraphs (a) and (b). If a vacancy occurs during a  
12 judge's unexpired term, the statewide nominating commission  
13 does not find the judge's performance is satisfactory, or the  
14 Governor does not reappoint the judge, the Governor shall  
15 appoint a successor judge for a term of 4 years in accordance  
16 with paragraph (b).

17 (d) The Governor may appoint any attorney with 5 years  
18 of experience in the practice of law in this state to serve as  
19 a judge of compensation claims pro hac vice in the absence or  
20 disqualification of any full-time judge of compensation claims  
21 or to serve temporarily as an additional judge of compensation  
22 claims in any area of the state in which the Governor  
23 determines that a need exists for such additional judge.  
24 However, no attorney so appointed by the Governor shall serve  
25 for a period to exceed 120 successive days.

26 (5) The Office of the Judges of Compensation Claims  
27 shall promulgate rules to effect the purposes of this section  
28 by November 1, 2001. Such rules shall not be subject to rule  
29 challenges under s. 120.56(2) or to drawout proceedings under  
30 s. 120.54(3)(c)2. Such rules shall include procedural rules  
31 applicable to workers' compensation claim resolution and

1 uniform criteria for measuring the performance of the office,  
2 including, but not limited to, the number of cases assigned  
3 and disposed, the age of pending and disposed cases,  
4 timeliness of decisionmaking, extraordinary fee awards, and  
5 the data necessary for the judicial nominating commission to  
6 review the performance of judges as required in paragraph  
7 (2)(c) and other performance indicators. The Office of the  
8 Judges of Compensation Claims shall conform the rules to  
9 legislation enacted by the Legislature.The workers'  
10 compensation rules of procedure approved by the Supreme Court  
11 shall apply until the rules promulgated by the Office of the  
12 Judges of Compensation Claims pursuant to this section become  
13 effective.

14 Section 17. Section 440.593, Florida Statutes, is  
15 amended to read:

16 440.593 Electronic reporting.--

17 (1) The division may establish by rule an electronic  
18 reporting system requiring or authorizing whereby an employer  
19 or carrier is required to submit required forms, reports, or  
20 other information electronically rather than by other means  
21 filing otherwise required forms or reports. The division may  
22 by rule establish different deadlines for submitting forms,  
23 reports, or reporting information to the division, or its  
24 authorized agent, via the electronic reporting system than are  
25 otherwise required when reporting information by other means.

26 (2) The division may require any carrier to submit  
27 data electronically, either directly or through a third-party  
28 vendor, and may require any carrier or vendor submitting data  
29 to the division electronically to be certified by the  
30 division. The division may specify performance requirements  
31 for any carrier or vendor submitting data electronically.

1       (3) The division may revoke the certification of any  
2 carrier or vendor determined by the division to be in  
3 noncompliance with performance standards prescribed by rule  
4 for electronic submissions.

5       (4) The division may assess a civil penalty, not to  
6 exceed \$500 for each violation, as prescribed by rule.

7       (5) The division is authorized to adopt rules to  
8 implement this section.

9           Section 18. Section 489.114, Florida Statutes, is  
10 amended to read:

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



1 Compensation shall result solely from records furnished to the  
2 Division of Workers' Compensation by the persons or entities  
3 governed by this section. The department shall notify the  
4 persons or entities governed by this section who have been  
5 determined to be in noncompliance with chapter 440, and the  
6 persons or entities notified shall provide certification of  
7 compliance with chapter 440 to the department and pay an  
8 administrative fine as provided by rule. The failure to  
9 maintain workers' compensation coverage as required by law  
10 shall be grounds for the board to revoke, suspend, or deny the  
11 issuance or renewal of a certificate, registration, or  
12 certificate of authority of the contractor under the  
13 provisions of s. 489.129.

14 Section 19. Paragraph (d) is added to subsection (5)  
15 of section 489.115, Florida Statutes, to read:

16 489.115 Certification and registration; endorsement;  
17 reciprocity; renewals; continuing education.--

18 (5)

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

26 Section 20. Section 489.510, Florida Statutes, is  
27 amended to read:

28 489.510 Evidence of workers' compensation  
29 coverage.--Except as provided in s. 489.515(3)(b),any person,  
30 business organization, or qualifying agent engaged in the  
31 business of contracting in this state and certified or

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

30 Section 21. Subsection (3) of section 489.515, Florida  
31 Statutes, is amended to read:

1           489.515 Issuance of certificates; registrations.--  
2           (3)(a) As a prerequisite to the initial issuance or  
3 the renewal of a certificate or registration, the applicant  
4 shall submit an affidavit on a form provided by the board  
5 attesting to the fact that the applicant has obtained both  
6 workers' compensation insurance or an acceptable exemption  
7 certificate issued by the department and public liability and  
8 property damage insurance for the health, safety, and welfare  
9 of the public in amounts determined by rule of the board. The  
10 board shall by rule establish a procedure to verify the  
11 accuracy of such affidavits based upon a random audit method.

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

19           Section 22. Paragraph (p) of subsection (4) of section  
20 627.311, Florida Statutes, is amended to read:

21           627.311 Joint underwriters and joint reinsurers.--

22           (4)

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

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

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

31

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

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

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

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

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

25           Section 23. Effective July 1, 2001, section 627.914,  
26 Florida Statutes, is amended to read:

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

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

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

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

14 ~~(a) Premiums written;~~

15 ~~(b) Premiums earned;~~

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

17 ~~(d) Losses paid;~~

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

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

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

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

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

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

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

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

1           ~~(m) The total amount of allocated and unallocated loss~~  
2 ~~adjustment expenses unpaid as of December 31 of each year; and~~  
3           ~~(n) The total of losses paid and allocated loss~~  
4 ~~adjustment expenses and unallocated loss adjustment expenses,~~  
5 ~~plus the total of losses unpaid as of December 31 of each year~~  
6 ~~and loss adjustment expenses unpaid as of December 31 of each~~  
7 ~~year.~~  
8           ~~(3) A report of the information required in subsection~~  
9 ~~(2) shall be filed no later than April 1 of each year and~~  
10 ~~shall include the information for the preceding year ending~~  
11 ~~December 31. All reports shall be on a calendar-accident year~~  
12 ~~basis, and each calendar-accident year shall be reported at~~  
13 ~~eight stages of development.~~  
14           (2)(4) Each insurer and self-insurance fund authorized  
15 to write a policy of workers' compensation insurance shall  
16 transmit the following information for ~~paragraphs (a), (b),~~  
17 ~~(d), and (e)~~ annually on both Florida experience and  
18 nationwide experience separately:  
19           (a) Payrolls by classification.  
20           (b) Manual premiums by classification.  
21           (c) Standard premiums by classification.  
22           (d) Losses by classification and injury type.  
23           (e) Expenses.  
24  
25 A report of this information shall be filed no later than July  
26 ~~April~~ 1 of each year. All reports shall be filed in  
27 accordance with standard reporting procedures for insurers,  
28 which procedures have received approval by the department, and  
29 shall contain data for the most recent policy period  
30 available. A statistical or rating organization may be used  
31 by insurers and self-insurnace funds to report the data

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

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

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

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

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

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

26 Section 24. Effective January 1, 2002, paragraph (e)  
27 of subsection (2) of section 440.49, Florida Statutes, is  
28 amended to read:

29 440.49 Limitation of liability for subsequent injury  
30 through Special Disability Trust Fund.--

31 (2) DEFINITIONS.--As used in this section, the term:

1           (e) "Administrator" means the entity selected ~~by the~~  
2 ~~commission~~ to review, allow, deny, compromise, controvert, and  
3 litigate claims of the Special Disability Trust Fund.

4  
5           In addition to the definitions contained in this subsection,  
6 the division may by rule prescribe definitions that are  
7 necessary for the effective administration of this section.

8           Section 25. Subsection (3) of section 440.45, Florida  
9 Statutes, and subsection (2) of section 440.59, Florida  
10 Statutes, are repealed.

11           Section 26. Effective January 1, 2002, paragraphs (f)  
12 and (g) of subsection (2) and subsections (13) and (14) of  
13 section 440.49, Florida Statutes, are repealed.

14           Section 27. Except as otherwise provided herein, this  
15 act shall take effect October 1, 2001.

16  
17                                           \*\*\*\*\*

18                                           HOUSE SUMMARY

19           Revises workers' compensation provisions. See bill for  
20 details.

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