

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 61.14, F.S.; requiring a judge of
4 compensation claims to consider the interests
5 of the worker and the worker's family 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. 112.3145,
12 F.S.; redefining the term "specified state
13 employee" to include the Deputy Chief Judge of
14 Compensation Claims; amending s. 120.65, F.S.;
15 establishing requirements for the Deputy Chief
16 Judge; amending s. 121.055, F.S.; including the
17 Deputy Chief Judge in the Senior Management
18 Service Class of the Florida Retirement System;
19 conforming provisions to the transfer of the
20 judges of compensation claims from the
21 Department of Labor and Employment Security to
22 the Division of Administrative Hearings;
23 amending s. 381.004, F.S.; conforming
24 provisions to the transfer of the judges of
25 compensation claims to the Division of
26 Administrative Hearings; amending s. 440.02,
27 F.S.; revising a monetary limit in a
28 definition; excluding certain sports officials
29 from the definition of "employee"; excluding
30 certain work done by state prisoners and county
31 inmates from the definition of "employment";

1 amending s. 440.09, F.S.; excluding employees
2 covered under the Defense Base Act from payment
3 of benefits; creating s. 440.1025, F.S.;
4 providing for consideration of a public
5 employer workplace safety program in
6 rate-setting; amending s. 440.105, F.S.;
7 reclassifying the Chief Judge of Compensation
8 Claims as the Deputy Chief Judge of
9 Compensation Claims; amending s. 440.12, F.S.;
10 providing for direct deposit of compensation
11 payments; amending s. 440.13, F.S.; revising
12 requirements for submission of certain medical
13 reports and bills; granting rehabilitation
14 providers access to medical records; revising
15 provider eligibility requirements; amending s.
16 440.134, F.S.; requiring certain insurers to
17 provide medically necessary remedial treatment,
18 care, and attendance under certain
19 circumstances; amending s. 440.14, F.S.;
20 requiring an employee to provide certain
21 information concerning concurrent employment;
22 amending s. 440.185, F.S.; authorizing the
23 division to contract with a private entity for
24 collection of certain policy information;
25 providing application; amending s. 440.192,
26 F.S.; revising requirements and procedures for
27 filing petitions for benefits; permitting
28 judges to dismiss portions of a petition;
29 specifying that dismissal of petitions is
30 without prejudice; amending grounds for
31 dismissal; redesignating the notice of denial

1 as a response to petition; amending s. 440.20,
2 F.S.; providing for payment of compensation by
3 direct deposit under certain circumstances;
4 providing procedural guidelines for certain
5 carriers for certain purposes; revising
6 lump-sum settlement requirements; amending s.
7 440.22, F.S.; excluding child support and
8 alimony claims from general exemption of
9 workers' compensation benefits from claims of
10 creditors; amending s. 440.25, F.S.; revising
11 mediation procedures; requiring written consent
12 for additional continuances; authorizing the
13 director of the Division of Administrative
14 Hearings to employ mediators; requiring judges
15 of compensation claims to file a report under
16 certain circumstances; eliminating local rule
17 adoption; removing the division's participation
18 in indigency proceedings; conforming provisions
19 to the reclassification of the Chief Judge as
20 the Deputy Chief Judge; amending s. 440.271,
21 F.S.; requiring the First District Court of
22 Appeal to establish a specialized division to
23 hear workers' compensation cases; amending s.
24 440.29, F.S.; conforming provisions to the
25 reclassification of the Chief Judge as the
26 Deputy Chief Judge; amending s. 440.34, F.S.;
27 providing for attorney's fees in a response to
28 petition; amending s. 440.345, F.S.; revising
29 reporting requirements; amending s. 440.38,
30 F.S.; providing for the type of qualifying
31 security deposit necessary to become a

1 self-insured employer; providing requirements,
2 procedures, and criteria; correcting a cross
3 reference; amending s. 440.44, F.S.; revising
4 record requirements; authorizing the director
5 of the Division of Administrative Hearings to
6 make expenditures relating to the Office of the
7 Judges of Compensation Claims; requiring the
8 office to maintain certain offices and
9 personnel; conforming provisions to the
10 transfer of the Office of the Judges of
11 Compensation Claims to the Division of
12 Administrative Hearings; amending s. 440.442,
13 F.S.; deleting Code of Judicial Conduct
14 requirements; providing for a Code of Judicial
15 Conduct as adopted by the Florida Supreme
16 Court; amending s. 440.45, F.S.; eliminating
17 the Chief Judge position; creating the position
18 of Deputy Chief Judge of Compensation Claims;
19 conforming provisions to the transfer of the
20 judges of compensation claims from the
21 Department of Labor and Employment Security to
22 the Division of Administrative Hearings within
23 the Department of Management Services;
24 requiring nominees for the judges of
25 compensation claims to meet additional
26 experience requirements; authorizing the
27 director of the Division of Administrative
28 Hearings to initiate and investigate complaints
29 against the Deputy Chief Judge and judges of
30 compensation claims and make recommendations to
31 the Governor; revising reporting requirements;

1 requiring the judicial nominating commission to
2 consider whether judges of compensation claims
3 have met certain requirements; providing
4 procedures; authorizing the Governor to appoint
5 certain judges of compensation claims; amending
6 s. 440.47, F.S.; conforming provisions to the
7 reclassification of the Chief Judge as the
8 Deputy Chief Judge; providing that the director
9 of the Division of Administrative Hearings must
10 approve travel expenses; amending s. 440.59,
11 F.S.; revising certain reporting requirements;
12 deleting an injury reporting requirement;
13 deleting an annual reporting requirement of the
14 Chief Judge; amending s. 440.593, F.S.;
15 providing the division with enforcement
16 authority relating to electronic reporting;
17 authorizing the division to assess a civil
18 penalty; authorizing the division to adopt
19 rules; amending ss. 489.114 and 489.510, F.S.;
20 providing an exception to certain workers'
21 compensation coverage evidence requirements;
22 amending ss. 489.115 and 489.515, F.S.;
23 revising certification and registration
24 requirements for initial licensure; amending s.
25 627.0915, F.S.; eliminating references to the
26 Division of Safety of the Department of Labor
27 and Employment Security in relation to rating
28 plans' workplace safety programs; amending s.
29 627.311, F.S.; clarifying language with respect
30 to joint underwriters' liability for monetary
31 damages; amending s. 627.914, F.S.; revising

1 the requirements for reports of information by
2 workers' compensation insurers; deleting a
3 reporting requirement for the Division of
4 Workers' Compensation; transferring the Office
5 of the Judges of Compensation Claims to the
6 Division of Administrative Hearings;
7 transferring certain positions from the
8 Division of Workers' Compensation to the Office
9 of Judges of Compensation Claims; providing
10 effective dates.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (8) of section 61.14, Florida
15 Statutes, is amended to read:

16 61.14 Enforcement and modification of support,
17 maintenance, or alimony agreements or orders.--

18 (8)(a) When reviewing and approving any lump-sum
19 settlement under s. 440.20(11)(a) and (b), a judge of
20 compensation claims must consider whether the settlement
21 serves the interests of the worker and the worker's family,
22 including, but not limited to, whether the settlement provides
23 for appropriate recovery of any child-support arrearage.

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

30 Section 2. Paragraph (a) of subsection (2) of section
31 61.30, Florida Statutes, is amended to read:

- 1 61.30 Child support guidelines; retroactive child
2 support.--
- 3 (2) Income shall be determined on a monthly basis for
4 the obligor and for the obligee as follows:
- 5 (a) Gross income shall include, but is not limited to,
6 the following items:
- 7 1. Salary or wages.
- 8 2. Bonuses, commissions, allowances, overtime, tips,
9 and other similar payments.
- 10 3. Business income from sources such as
11 self-employment, partnership, close corporations, and
12 independent contracts. "Business income" means gross receipts
13 minus ordinary and necessary expenses required to produce
14 income.
- 15 4. Disability benefits.
- 16 5. All workers'~~worker's~~ compensation benefits and
17 settlements.
- 18 6. Unemployment compensation.
- 19 7. Pension, retirement, or annuity payments.
- 20 8. Social security benefits.
- 21 9. Spousal support received from a previous marriage
22 or court ordered in the marriage before the court.
- 23 10. Interest and dividends.
- 24 11. Rental income, which is gross receipts minus
25 ordinary and necessary expenses required to produce the
26 income.
- 27 12. Income from royalties, trusts, or estates.
- 28 13. Reimbursed expenses or in kind payments to the
29 extent that they reduce living expenses.
- 30 14. Gains derived from dealings in property, unless
31 the gain is nonrecurring.

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

4 112.3145 Disclosure of financial interests and clients
5 represented before agencies.--

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

8 (b) "Specified state employee" means:

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

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

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

27 4. The superintendent or institute director of a state
28 mental health institute established for training and research
29 in the mental health field or the warden or director of any
30 major state institution or facility established for
31 corrections, training, treatment, or rehabilitation.

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

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

11 7. Each employee of the Commission on Ethics.

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

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

14 Section 4. Subsection (1) of section 120.65, Florida
15 Statutes, is amended to read:

16 120.65 Administrative law judges.--

17 (1) The Division of Administrative Hearings within the
18 Department of Management Services shall be headed by a
19 director who shall be appointed by the Administration
20 Commission and confirmed by the Senate. The director, who
21 shall also serve as the chief administrative law judge, and
22 any deputy chief administrative law judge must possess the
23 same minimum qualifications as the administrative law judges
24 employed by the division. The Deputy Chief Judge of
25 Compensation Claims must possess the minimum qualifications
26 established in s. 440.45(2) and shall report to the director.
27 The division shall be a separate budget entity, and the
28 director shall be its agency head for all purposes. The
29 Department of Management Services shall provide administrative
30 support and service to the division to the extent requested by
31 the director. The division shall not be subject to control,

1 supervision, or direction by the Department of Management
2 Services in any manner, including, but not limited to,
3 personnel, purchasing, transactions involving real or personal
4 property, and budgetary matters.

5 Section 5. Paragraph (i) of subsection (1) of section
6 121.055, Florida Statutes, is amended to read:

7 121.055 Senior Management Service Class.--There is
8 hereby established a separate class of membership within the
9 Florida Retirement System to be known as the "Senior
10 Management Service Class," which shall become effective
11 February 1, 1987.

12 (1)

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

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

26 Section 6. Paragraph (e) of subsection (3) of section
27 381.004, Florida Statutes, is amended to read:

28 381.004 HIV testing.--

29 (3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
30 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.--

31

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

10 1. The subject of the test or the subject's legally
11 authorized representative.

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

22 3. An authorized agent or employee of a health
23 facility or health care provider if the health facility or
24 health care provider itself is authorized to obtain the test
25 results, the agent or employee participates in the
26 administration or provision of patient care or handles or
27 processes specimens of body fluids or tissues, and the agent
28 or employee has a need to know such information. The
29 department shall adopt a rule defining which persons have a
30 need to know pursuant to this subparagraph.

31

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

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

12 6. A health facility or health care provider which
13 procures, processes, distributes, or uses:

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

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

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

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

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

26 a. No court of this state shall issue such order
27 unless the court finds that the person seeking the test
28 results has demonstrated a compelling need for the test
29 results which cannot be accommodated by other means. In
30 assessing compelling need, the court shall weigh the need for
31 disclosure against the privacy interest of the test subject

1 and the public interest which may be disserved by disclosure
2 which deters blood, organ, and semen donation and future human
3 immunodeficiency virus-related testing or which may lead to
4 discrimination. This paragraph shall not apply to blood bank
5 donor records.

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

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

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

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

26 10. A person allowed access by order of a judge of
27 compensation claims of the Division of Administrative Hearings
28 ~~Workers' Compensation of the Department of Labor and~~
29 ~~Employment Security~~. A judge of compensation claims shall not
30 issue such order unless he or she finds that the person
31 seeking the test results has demonstrated a compelling need

1 for the test results which cannot be accommodated by other
2 means.

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

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

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

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

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

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1 Section 7. Subsection (4), paragraph (d) of subsection
2 (14), and paragraph (c) of subsection (16) of section 440.02,
3 Florida Statutes, are amended to read:

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

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

13 (14)

14 (d) "Employee" does not include:

15 1. An independent contractor, if:

16 a. The independent contractor maintains a separate
17 business with his or her own work facility, truck, equipment,
18 materials, or similar accommodations;

19 b. The independent contractor holds or has applied for
20 a federal employer identification number, unless the
21 independent contractor is a sole proprietor who is not
22 required to obtain a federal employer identification number
23 under state or federal requirements;

24 c. The independent contractor performs or agrees to
25 perform specific services or work for specific amounts of
26 money and controls the means of performing the services or
27 work;

28 d. The independent contractor incurs the principal
29 expenses related to the service or work that he or she
30 performs or agrees to perform;

31

1 e. The independent contractor is responsible for the
2 satisfactory completion of work or services that he or she
3 performs or agrees to perform and is or could be held liable
4 for a failure to complete the work or services;

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

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

10 h. The independent contractor has continuing or
11 recurring business liabilities or obligations; and

12 i. The success or failure of the independent
13 contractor's business depends on the relationship of business
14 receipts to expenditures.

15
16 However, the determination as to whether an individual
17 included in the Standard Industrial Classification Manual of
18 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,
19 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,
20 2448, or 2449, or a newspaper delivery person, is an
21 independent contractor is governed not by the criteria in this
22 paragraph but by common-law principles, giving due
23 consideration to the business activity of the individual.

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

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

1 4. An owner-operator of a motor vehicle who transports
2 property under a written contract with a motor carrier which
3 evidences a relationship by which the owner-operator assumes
4 the responsibility of an employer for the performance of the
5 contract, if the owner-operator is required to furnish the
6 necessary motor vehicle equipment and all costs incidental to
7 the performance of the contract, including, but not limited
8 to, fuel, taxes, licenses, repairs, and hired help; and the
9 owner-operator is paid a commission for transportation service
10 and is not paid by the hour or on some other time-measured
11 basis.

12 5. A person whose employment is both casual and not in
13 the course of the trade, business, profession, or occupation
14 of the employer.

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

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

1 b. Volunteers participating in federal programs
2 established under Pub. L. No. 93-113.

3 7. Any officer of a corporation who elects to be
4 exempt from this chapter.

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

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

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

26 11. A person who performs services as a sports
27 official for an entity sponsoring an interscholastic sports
28 event or for a public entity or private, nonprofit
29 organization that sponsors an amateur sports event. For
30 purposes of this subparagraph, such a person is an independent
31 contractor. For purposes of this subparagraph, the term

1 "sports official" means any person who is a neutral
2 participant in a sports event, including, but not limited to,
3 umpires, referees, judges, linespersons, scorekeepers, or
4 timekeepers. This subparagraph does not apply to any person
5 employed by a district school board who serves as a sports
6 official as required by the employing school board or who
7 serves as a sports official as part of his or her
8 responsibilities during normal school hours.

9 (16)

10 (c) "Employment" does not include service performed by
11 or as:

12 1. Domestic servants in private homes.

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

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

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

30
31

1 5. State prisoners or county inmates, except those
2 performing services for private employers or those enumerated
3 in s. 948.03(8)(a).

4 Section 8. Subsection (2) of section 440.09, Florida
5 Statutes, is amended to read:

6 440.09 Coverage.--

7 (2) Benefits are not payable in respect of the
8 disability or death of any employee covered by the Federal
9 Employer's Liability Act, the Longshoremen's and Harbor
10 Worker's Compensation Act, the Defense Base Act, or the Jones
11 Act.

12 Section 9. Section 440.1025, Florida Statutes, is
13 created to read:

14 440.1025 Consideration of public employer workplace
15 safety program in rate-setting; program requirements;
16 rulemaking.--For a public employer to be eligible for receipt
17 of specific identifiable consideration under s. 627.0915 for a
18 workplace safety program in the setting of rates, the public
19 employer must have a workplace safety program. At a minimum,
20 the program must include a written safety policy and safety
21 rules, and make provision for safety inspections, preventative
22 maintenance, safety training, first-aid, accident
23 investigation, and necessary record keeping. For purposes of
24 this section, "public employer" means "any agency within
25 state, county, or municipal government employing individuals
26 for salary, wages, or other remuneration." The Division may
27 promulgate rules for insurers to utilize in determining public
28 employer compliance with the requirements of this section.

29 Section 10. Paragraph (b) of subsection (3) of section
30 440.105, Florida Statutes, is amended to read:

31

1 440.105 Prohibited activities; reports; penalties;
2 limitations.--

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

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

16 Section 11. Subsection (1) of section 440.12, Florida
17 Statutes, is amended to read:

18 440.12 Time for commencement and limits on weekly rate
19 of compensation.--

20 (1) No compensation shall be allowed for the first 7
21 days of the disability, except benefits provided for in s.
22 440.13. However, if the injury results in disability of more
23 than 21 days, compensation shall be allowed from the
24 commencement of the disability. All weekly compensation
25 payments, except for the first payment, shall be paid by check
26 or, if authorized by the employee, deposited directly into the
27 employee's account at a financial institution. As used in this
28 subsection, the term "financial institution" means a financial
29 institution as defined in s. 655.005(1)(h).

30 Section 12. Paragraph (a) of subsection (3) and
31 paragraphs (b) and (c) of subsection (4) of section 440.13,

1 Florida Statutes, are amended, and paragraph (f) is added to
2 subsection (2) of said section, to read:

3 440.13 Medical services and supplies; penalty for
4 violations; limitations.--

5 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.--

6 (f) Upon the written request of the employee, the
7 carrier shall give the employee the opportunity for one change
8 of physician during the course of treatment for any one
9 accident. The employee shall be entitled to select another
10 physician from among not fewer than three carrier-authorized
11 physicians who are not professionally affiliated.

12 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.--

13 (a) As a condition to eligibility for payment under
14 this chapter, a health care provider who renders services must
15 be a certified health care provider and must receive
16 authorization from the carrier before providing treatment.
17 This paragraph does not apply to emergency care. The division
18 shall adopt rules to implement the certification of health
19 care providers. ~~As a one-time prerequisite to obtaining~~
20 ~~certification, the division shall require each physician to~~
21 ~~demonstrate proof of completion of a minimum 5-hour course~~
22 ~~that covers the subject areas of cost containment, utilization~~
23 ~~control, ergonomics, and the practice parameters adopted by~~
24 ~~the division governing the physician's field of practice. The~~
25 ~~division shall coordinate with the Agency for Health Care~~
26 ~~Administration, the Florida Medical Association, the Florida~~
27 ~~Osteopathic Medical Association, the Florida Chiropractic~~
28 ~~Association, the Florida Podiatric Medical Association, the~~
29 ~~Florida Optometric Association, the Florida Dental~~
30 ~~Association, and other health professional organizations and~~
31 ~~their respective boards as deemed necessary by the Agency for~~

1 ~~Health Care Administration in complying with this subsection.~~
2 ~~No later than October 1, 1994, the division shall adopt rules~~
3 ~~regarding the criteria and procedures for approval of courses~~
4 ~~and the filing of proof of completion by the physicians.~~

5 (4) NOTICE OF TREATMENT TO CARRIER; FILING WITH
6 DIVISION.--

7 (b) Upon the request of the Division of Workers'
8 Compensation, each medical report or bill obtained or received
9 by the employer, the carrier, or the injured employee, or the
10 attorney for the employer, carrier, or injured employee, with
11 respect to the remedial treatment, or care, and attendance of
12 the injured employee, including any report of an examination,
13 diagnosis, or disability evaluation, must be filed with the
14 Division of Workers' Compensation pursuant to rules adopted by
15 the division. The health care provider shall also furnish to
16 the injured employee or to his or her attorney, on demand, a
17 copy of his or her office chart, records, and reports, and may
18 charge the injured employee an amount authorized by the
19 division for the copies. Each such health care provider shall
20 provide to the division ~~any additional~~ information about the
21 remedial treatment, care, and attendance which ~~that~~ the
22 division reasonably requests.

23 (c) It is the policy for the administration of the
24 workers' compensation system that there be reasonable access
25 to medical information by all parties to facilitate the
26 self-executing features of the law. Notwithstanding the
27 limitations in s. 456.057 and subject to the limitations in s.
28 381.004, upon the request of the employer, the carrier, an
29 authorized qualified rehabilitation provider, or the attorney
30 for the employer or carrier ~~either of them~~, the medical
31 records of an injured employee must be furnished to those

1 persons and the medical condition of the injured employee must
 2 be discussed with those persons, if the records and the
 3 discussions are restricted to conditions relating to the
 4 workplace injury. Any such discussions may be held before or
 5 after the filing of a claim without the knowledge, consent, or
 6 presence of any other party or his or her agent or
 7 representative. A health care provider who willfully refuses
 8 to provide medical records or to discuss the medical condition
 9 of the injured employee, after a reasonable request is made
 10 for such information pursuant to this subsection, shall be
 11 subject by the division to one or more of the penalties set
 12 forth in paragraph (8)(b).

13 Section 13. Paragraphs (a) and (b) of subsection (2)
 14 of section 440.134, Florida Statutes, are amended to read:

15 440.134 Workers' compensation managed care
 16 arrangement.--

17 (2)(a)~~(b)~~ ~~Effective January 1, 1997,~~ The employer may
 18 ~~shall~~, subject to the terms and limitations specified
 19 elsewhere in this section and chapter, furnish to the employee
 20 solely through managed care arrangements such medically
 21 necessary remedial treatment, care, and attendance for such
 22 period as the nature of the injury or the process of recovery
 23 requires.

24 (b)~~(a)~~ The agency shall authorize an insurer to offer
 25 or utilize a workers' compensation managed care arrangement
 26 after the insurer files a completed application along with the
 27 payment of a \$1,000 application fee, and upon the agency's
 28 being satisfied that the applicant has the ability to provide
 29 quality of care consistent with the prevailing professional
 30 standards of care and the insurer and its workers'
 31 compensation managed care arrangement otherwise meets the

1 requirements of this section. No insurer may offer or utilize
 2 a managed care arrangement without such authorization. The
 3 authorization, unless sooner suspended or revoked, shall
 4 automatically expire 2 years after the date of issuance unless
 5 renewed by the insurer. The authorization shall be renewed
 6 upon application for renewal and payment of a renewal fee of
 7 \$1,000, provided that the insurer is in compliance with the
 8 requirements of this section and any rules adopted hereunder.
 9 An application for renewal of the authorization shall be made
 10 90 days prior to expiration of the authorization, on forms
 11 provided by the agency. The renewal application shall not
 12 require the resubmission of any documents previously filed
 13 with the agency if such documents have remained valid and
 14 unchanged since their original filing.

15 Section 14. Subsection (5) is added to section 440.14,
 16 Florida Statutes, to read:

17 440.14 Determination of pay.--

18 (5)(a) If the lost wages from concurrent employment
 19 are used in calculating the average weekly wage, the employee
 20 is responsible for providing information concerning the loss
 21 of earnings from the concurrent employment.

22 (b) The employee waives any entitlement to interest,
 23 penalties, and attorney's fees during the period in which the
 24 employee has not provided information concerning the loss of
 25 earnings from concurrent employment. Carriers are not subject
 26 to penalties by the division under s. 440.20(8)(b) and (c) for
 27 unpaid compensation related to concurrent employment during
 28 the period in which the employee has not provided information
 29 concerning the loss of earnings from concurrent employment.

30 Section 15. Subsection (7) of section 440.185, Florida
 31 Statutes, is amended to read:

1 440.185 Notice of injury or death; reports; penalties
2 for violations.--

3 (7) Every carrier shall file with the division within
4 21 days after the issuance of a policy or contract of
5 insurance such policy information as the division requires ~~may~~
6 ~~require~~, including notice of whether the policy is a minimum
7 premium policy. Notice of cancellation or expiration of a
8 policy as set out in s. 440.42(3) shall be mailed to the
9 division in accordance with rules adopted ~~promulgated~~ by the
10 division under chapter 120. The division may contract with a
11 private entity for the collection of policy information
12 required to be filed by carriers under this subsection and the
13 receipt of notices of cancellation or expiration of a policy
14 required to be filed by carriers under s. 440.42(3). The
15 submission of policy information or notices of cancellation or
16 expiration to the contracted private entity satisfies the
17 filing requirements of this subsection and s. 440.42(3).

18 Section 16. Subsections (1), (2), (5), and (8) of
19 section 440.192, Florida Statutes, are amended to read:

20 440.192 Procedure for resolving benefit disputes.--

21 (1) Subject to s. 440.191, any employee who has not
22 received a benefit to which the employee believes she or he is
23 entitled under this chapter shall file by certified mail, or
24 by electronic means approved by the Deputy Chief Judge, with
25 the Office of the Judges of Compensation Claims a petition for
26 benefits which meets the requirements of this section. The
27 division shall inform employees of the location of the Office
28 of the Judges of Compensation Claims for purposes of filing a
29 petition for benefits. The employee shall also serve copies
30 of the petition for benefits by certified mail, or by
31 electronic means approved by the Deputy Chief Judge, upon the

1 employer ~~and, the employer's carrier, and the division in~~
2 ~~Tallahassee a petition for benefits that meets the~~
3 ~~requirements of this section. The Deputy Chief Judge shall~~
4 ~~refer the petitions to the judges of compensation claims. The~~
5 ~~division shall refer the petition to the Office of the Judges~~
6 ~~of Compensation Claims.~~

7 (2) Upon receipt, the Office of the Judges of
8 Compensation Claims shall review each petition and shall
9 dismiss each petition or any portion of such a petition, upon
10 the judge's its own motion or upon the motion of any party,
11 that does not on its face specifically identify or itemize the
12 following:

13 (a) Name, address, telephone number, and social
14 security number of the employee.

15 (b) Name, address, and telephone number of the
16 employer.

17 (c) A detailed description of the injury and cause of
18 the injury, including the location of the occurrence and the
19 date or dates of the accident.

20 (d) A detailed description of the employee's job, work
21 responsibilities, and work the employee was performing when
22 the injury occurred.

23 (e) The time period for which compensation and the
24 specific classification of compensation were ~~was~~ not timely
25 provided.

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

29 (g) All specific travel costs to which the employee
30 believes she or he is entitled, including dates of travel and
31 purpose of travel, means of transportation, and mileage and

1 including the date the request for mileage was filed with the
2 carrier and a copy of the request filed with the carrier.

3 (h) Specific listing of all medical charges alleged
4 unpaid, including the name and address of the medical
5 provider, the amounts due, and the specific dates of
6 treatment.

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

9 (j) Specific explanation of any other disputed issue
10 that a judge of compensation claims will be called to rule
11 upon.

12
13 The dismissal of any petition or portion of such a petition
14 under this section is without prejudice and does not require a
15 hearing.

16 (5) All motions to dismiss must state with
17 particularity the basis for the motion. The judge of
18 compensation claims shall enter an order upon such motions
19 without hearing, unless good cause for hearing is shown. When
20 any petition or portion of a petition is dismissed for lack of
21 specificity under this subsection, the claimant must be
22 allowed 20 days after the date of the order of dismissal in
23 which to file an amended petition. Any grounds for dismissal
24 for lack of specificity under this section which are not
25 asserted within 30 days after receipt of the petition for
26 benefits are thereby waived.

27 (8) Within 14 days after receipt of a petition for
28 benefits by certified mail, the carrier must either pay the
29 requested benefits without prejudice to its right to deny
30 within 120 days from receipt of the petition or file a
31 response to petition ~~notice of denial~~ with the Office of the

1 Judges of Compensation Claims ~~division~~. The carrier must list
 2 all benefits requested but not paid and explain its
 3 justification for nonpayment in the response to petition
 4 ~~notice of denial~~. A carrier that does not deny compensability
 5 in accordance with s. 440.20(4) is deemed to have accepted the
 6 employee's injuries as compensable, unless it can establish
 7 material facts relevant to the issue of compensability that
 8 could not have been discovered through reasonable
 9 investigation within the 120-day period. The carrier shall
 10 provide copies of the response ~~notice~~ to the filing party,
 11 employer, and claimant by certified mail.

12 Section 17. Paragraph (a) of subsection (1) and
 13 subsections (4), (6), and (11) of section 440.20, Florida
 14 Statutes, are amended to read:

15 440.20 Time for payment of compensation; penalties for
 16 late payment.--

17 (1)(a) Unless it denies compensability or entitlement
 18 to benefits, the carrier shall pay compensation directly to
 19 the employee as required by ss. 440.14, 440.15, and 440.16, in
 20 accordance with the obligations set forth in such sections. If
 21 authorized by the employee, the carrier's obligation to pay
 22 compensation directly to the employee is satisfied when the
 23 carrier directly deposits, by electronic transfer or other
 24 means, compensation into the employee's account at a financial
 25 institution. As used in this paragraph, the term "financial
 26 institution" means a financial institution as defined in s.
 27 655.005(1)(h). Compensation by direct deposit is considered
 28 paid on the date the funds become available for withdrawal by
 29 the employee.

30 (4) If the carrier is uncertain of its obligation to
 31 provide benefits or compensation, it may initiate payment

1 without prejudice and without admitting liability. The carrier
2 shall immediately and in good faith commence investigation of
3 the employee's entitlement to benefits under this chapter and
4 shall admit or deny compensability within 120 days after the
5 initial provision of compensation or benefits as required
6 under subsection (2) or s. 440.192(8). Upon commencement of
7 payment as required under subsection (2) or s. 440.192(8), the
8 carrier shall provide written notice to the employee that it
9 has elected to pay all or part of the claim pending further
10 investigation, and that it will advise the employee of claim
11 acceptance or denial within 120 days. A carrier that fails to
12 deny compensability within 120 days after the initial
13 provision of benefits or payment of compensation as required
14 under subsection (2) or s. 440.192(8) waives the right to deny
15 compensability, unless the carrier can establish material
16 facts relevant to the issue of compensability that it could
17 not have discovered through reasonable investigation within
18 the 120-day period. The initial provision of compensation or
19 benefits, for purposes of this subsection, means the first
20 installment of compensation or benefits to be paid by the
21 carrier under subsection (2) or pursuant to a petition for
22 benefits under s. 440.192(8).

23 (6) If any installment of compensation for death or
24 dependency benefits, disability, permanent impairment, or wage
25 loss payable without an award is not paid within 7 days after
26 it becomes due, as provided in subsection (2), subsection (3),
27 or subsection (4), there shall be added to such unpaid
28 installment a punitive penalty of an amount equal to 20
29 percent of the unpaid installment or \$5, which shall be paid
30 at the same time as, but in addition to, such installment of
31 compensation, unless notice is filed under subsection (4) or

1 unless such nonpayment results from conditions over which the
2 employer or carrier had no control. When any installment of
3 compensation payable without an award has not been paid within
4 7 days after it became due and the claimant concludes the
5 prosecution of the claim before a judge of compensation claims
6 without having specifically claimed additional compensation in
7 the nature of a penalty under this section, the claimant will
8 be deemed to have acknowledged that, owing to conditions over
9 which the employer or carrier had no control, such installment
10 could not be paid within the period prescribed for payment and
11 to have waived the right to claim such penalty. However,
12 during the course of a hearing, the judge of compensation
13 claims shall on her or his own motion raise the question of
14 whether such penalty should be awarded or excused. The
15 division may assess without a hearing the punitive penalty
16 against either the employer or the insurance carrier,
17 depending upon who was at fault in causing the delay. The
18 insurance policy cannot provide that this sum will be paid by
19 the carrier if the division or the judge of compensation
20 claims determines that the punitive penalty should be made by
21 the employer rather than the carrier. Any additional
22 installment of compensation paid by the carrier pursuant to
23 this section shall be paid directly to the employee by check
24 or, if authorized by the employee, by direct deposit into the
25 employee's account at a financial institution. As used in this
26 subsection, the term "financial institution" means a financial
27 institution as defined in s. 655.005(1)(h).

28 (11)(a) When a claimant is not represented by counsel,
29 upon joint petition of all interested parties, a lump-sum
30 payment in exchange for the employer's or carrier's release
31 from liability for future medical expenses, as well as future

1 payments of compensation expenses and any other benefits
2 provided under this chapter, shall be allowed at any time in
3 any case in which the employer or carrier has filed a written
4 notice of denial within 120 days after the employer receives
5 notice ~~date~~ of the injury, and the judge of compensation
6 claims at a hearing to consider the settlement proposal finds
7 a justiciable controversy as to legal or medical
8 compensability of the claimed injury or the alleged accident.
9 The employer or carrier may not pay any attorney's fees on
10 behalf of the claimant for any settlement under this section
11 unless expressly authorized elsewhere in this chapter. Upon
12 the joint petition of all interested parties and after giving
13 due consideration to the interests of all interested parties,
14 the judge of compensation claims may enter a compensation
15 order approving and authorizing the discharge of the liability
16 of the employer for compensation and remedial treatment, care,
17 and attendance, as well as rehabilitation expenses, by the
18 payment of a lump sum. Such a compensation order so entered
19 upon joint petition of all interested parties is not subject
20 to modification or review under s. 440.28. If the settlement
21 proposal together with supporting evidence is not approved by
22 the judge of compensation claims, it shall be considered void.
23 Upon approval of a lump-sum settlement under this subsection,
24 the judge of compensation claims shall send a report to the
25 Chief Judge of the amount of the settlement and a statement of
26 the nature of the controversy. The Chief Judge shall keep a
27 record of all such reports filed by each judge of compensation
28 claims and shall submit to the Legislature a summary of all
29 such reports filed under this subsection annually by September
30 15.
31

1 (b) When a claimant is not represented by counsel,
2 upon joint petition of all interested parties, a lump-sum
3 payment in exchange for the employer's or carrier's release
4 from liability for future medical expenses, as well as future
5 payments of compensation and rehabilitation expenses, and any
6 other benefits provided under this chapter, may be allowed at
7 any time in any case after the injured employee has attained
8 maximum medical improvement. An employer or carrier may not
9 pay any attorney's fees on behalf of the claimant for any
10 settlement, unless expressly authorized elsewhere in this
11 chapter. A compensation order so entered upon joint petition
12 of all interested parties shall not be subject to modification
13 or review under s. 440.28. However, a judge of compensation
14 claims is not required to approve any award for lump-sum
15 payment when it is determined by the judge of compensation
16 claims that the payment being made is in excess of the value
17 of benefits the claimant would be entitled to under this
18 chapter. The judge of compensation claims shall make or cause
19 to be made such investigations as she or he considers
20 necessary, in each case in which the parties have stipulated
21 that a proposed final settlement of liability of the employer
22 for compensation shall not be subject to modification or
23 review under s. 440.28, to determine whether such final
24 disposition will definitely aid the rehabilitation of the
25 injured worker or otherwise is clearly for the best interests
26 of the person entitled to compensation and, in her or his
27 discretion, may have an investigation made by the
28 Rehabilitation Section of the Division of Workers'
29 Compensation. The joint petition and the report of any
30 investigation so made will be deemed a part of the proceeding.
31 An employer shall have the right to appear at any hearing

1 pursuant to this subsection which relates to the discharge of
2 such employer's liability and to present testimony at such
3 hearing. The carrier shall provide reasonable notice to the
4 employer of the time and date of any such hearing and inform
5 the employer of her or his rights to appear and testify. ~~When~~
6 ~~the claimant is represented by counsel or when the claimant~~
7 ~~and carrier or employer are represented by counsel, final~~
8 ~~approval of the lump-sum settlement agreement, as provided for~~
9 ~~in a joint petition and stipulation, shall be approved by~~
10 ~~entry of an order within 7 days after the filing of such joint~~
11 ~~petition and stipulation without a hearing, unless the judge~~
12 ~~of compensation claims determines, in her or his discretion,~~
13 ~~that additional testimony is needed before such settlement can~~
14 ~~be approved or disapproved and so notifies the parties.~~The
15 probability of the death of the injured employee or other
16 person entitled to compensation before the expiration of the
17 period during which such person is entitled to compensation
18 shall, in the absence of special circumstances making such
19 course improper, be determined in accordance with the most
20 recent United States Life Tables published by the National
21 Office of Vital Statistics of the United States Department of
22 Health and Human Services. The probability of the happening of
23 any other contingency affecting the amount or duration of the
24 compensation, except the possibility of the remarriage of a
25 surviving spouse, shall be disregarded. As a condition of
26 approving a lump-sum payment to a surviving spouse, the judge
27 of compensation claims, in the judge of compensation claims'
28 discretion, may require security which will ensure that, in
29 the event of the remarriage of such surviving spouse, any
30 unaccrued future payments so paid may be recovered or recouped
31

1 by the employer or carrier. Such applications shall be
2 considered and determined in accordance with s. 440.25.

3 (c) Notwithstanding s. 440.21(2), when a claimant is
4 represented by counsel, the claimant may waive all rights to
5 any and all benefits under this chapter by entering into a
6 settlement agreement releasing the employer and the carrier
7 from liability for workers' compensation benefits in exchange
8 for a lump-sum payment to the claimant. The settlement
9 agreement requires approval by the judge of compensation
10 claims only as to the attorney's fees paid to the claimant's
11 attorney by the claimant. The parties need not submit any
12 information or documentation in support of the settlement,
13 except as needed to justify the amount of the attorney's fees.
14 Neither the employer nor the carrier is responsible for any
15 attorney's fees relating to the settlement and release of
16 claims under this section. Payment of the lump-sum settlement
17 amount must be made within 14 days after the date the judge of
18 compensation claims mails the order approving the attorney's
19 fees. Any order entered by a judge of compensation claims
20 approving the attorney's fees as set out in the settlement
21 under this subsection is not considered to be an award and is
22 not subject to modification or review. The judge of
23 compensation claims shall report these settlements to the
24 Deputy Chief Judge in accordance with the requirements set
25 forth in paragraphs (a) and (b). Settlements entered into
26 under this subsection are valid and apply to all dates of
27 accident.

28 (d) With respect to any payment provision under this
29 chapter, a judge of compensation claims must consider whether
30 any and all benefits, including settlements, provide for
31 appropriate recovery of any child support arrearage.

1 ~~(e)(c)~~ This section applies to all claims that the
2 parties have not previously settled, regardless of the date of
3 accident.

4 Section 18. Section 440.22, Florida Statutes, is
5 amended to read:

6 440.22 Assignment and exemption from claims of
7 creditors.--No assignment, release, or commutation of
8 compensation or benefits due or payable under this chapter
9 except as provided by this chapter shall be valid, and such
10 compensation and benefits shall be exempt from all claims of
11 creditors, and from levy, execution and attachments or other
12 remedy for recovery or collection of a debt, which exemption
13 may not be waived. However, the exemption of workers'
14 compensation claims from creditors does not extend to claims
15 based on an award of child support or alimony.

16 Section 19. Subsections (1), (2), (3), and (4) and
17 paragraph (b) of subsection (5) of section 440.25, Florida
18 Statutes, are amended to read:

19 440.25 Procedures for mediation and hearings.--

20 (1) Within 21 days after a petition for benefits is
21 filed under s. 440.192, a mediation conference concerning such
22 petition shall be held. Within 7 days after such petition is
23 filed, the judge of compensation claims shall notify the
24 interested parties that a mediation conference concerning such
25 petition will be held. Such notice shall give the date, time,
26 and location of the mediation conference. Such notice may be
27 served personally upon the interested parties or may be sent
28 to the interested parties by mail. The claimant or the
29 adjuster of the employer or carrier may, at the mediator's
30 discretion, attend the mediation conference by telephone or,
31 if agreed to by the parties, other electronic means.

1 (2) Any party who participates in a mediation
2 conference shall not be precluded from requesting a hearing
3 following the mediation conference should both parties not
4 agree to be bound by the results of the mediation conference.
5 A mediation conference is required to be held unless this
6 requirement is waived by the Deputy Chief Judge. No later than
7 3 days prior to the mediation conference, all parties must
8 submit any applicable motions, including, but not limited to,
9 a motion to waive the mediation conference, to the judge of
10 compensation claims.

11 (3) Such mediation conference shall be conducted
12 informally and does not require the use of formal rules of
13 evidence or procedure. Any information from the files,
14 reports, case summaries, mediator's notes, or other
15 communications or materials, oral or written, relating to a
16 mediation conference under this section obtained by any person
17 performing mediation duties is privileged and confidential and
18 may not be disclosed without the written consent of all
19 parties to the conference. Any research or evaluation effort
20 directed at assessing the mediation program activities or
21 performance must protect the confidentiality of such
22 information. Each party to a mediation conference has a
23 privilege during and after the conference to refuse to
24 disclose and to prevent another from disclosing communications
25 made during the conference whether or not the contested issues
26 are successfully resolved. This subsection and paragraphs
27 (4)(a) and (b) shall not be construed to prevent or inhibit
28 the discovery or admissibility of any information that is
29 otherwise subject to discovery or that is admissible under
30 applicable law or rule of procedure, except that any conduct
31 or statements made during a mediation conference or in

1 negotiations concerning the conference are inadmissible in any
2 proceeding under this chapter. The Deputy Chief Judge shall
3 select a mediator. The mediator shall be employed on a
4 full-time basis by the Office of the Judges of Compensation
5 Claims. A mediator must be a member of The Florida Bar for at
6 least 5 years and must complete a mediation training program
7 approved by the Deputy Chief Judge. Adjunct mediators may be
8 employed by the Office of the Judges of Compensation Claims on
9 an as-needed basis and shall be selected from a list prepared
10 by the Deputy Chief Judge. An adjunct mediator must be
11 independent of all parties participating in the mediation
12 conference. An adjunct mediator must be a member of The
13 Florida Bar for at least 5 years and must complete a mediation
14 training program approved by the Deputy Chief Judge. An
15 adjunct mediator shall have access to the office, equipment,
16 and supplies of the judge of compensation claims in each
17 district. In the event both parties agree, the results of the
18 mediation conference shall be binding and neither party shall
19 have a right to appeal the results. In the event either party
20 refuses to agree to the results of the mediation conference,
21 the results of the mediation conference as well as the
22 testimony, witnesses, and evidence presented at the conference
23 shall not be admissible at any subsequent proceeding on the
24 claim. The mediator shall not be called in to testify or give
25 deposition to resolve any claim for any hearing before the
26 judge of compensation claims. The employer may be represented
27 by an attorney at the mediation conference if the employee is
28 also represented by an attorney at the mediation conference.

29 (4)(a) If, on the 10th day following commencement of
30 mediation, the questions in dispute have not been resolved,
31 the judge of compensation claims shall hold a pretrial

1 hearing. The judge of compensation claims shall give the
2 interested parties at least 7 days' advance notice of the
3 pretrial hearing by mail. At the pretrial hearing, the judge
4 of compensation claims shall, subject to paragraph (b), set a
5 date for the final hearing that allows the parties at least 30
6 days to conduct discovery unless the parties consent to an
7 earlier hearing date.

8 (b) The final hearing must be held and concluded
9 within 45 days after the pretrial hearing. Continuances may be
10 granted only if the requesting party demonstrates to the judge
11 of compensation claims that the reason for requesting the
12 continuance arises from circumstances beyond the party's
13 control. The written consent of the claimant must be obtained
14 before any request is granted for an additional continuance
15 after the initial continuance has been granted.

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

19 (d) The hearing shall be held in the county where the
20 injury occurred, if the injury occurred in this state, unless
21 otherwise agreed to between the parties and authorized by the
22 judge of compensation claims in the county where the injury
23 occurred. If the injury occurred without the state and is one
24 for which compensation is payable under this chapter, then the
25 hearing above referred to may be held in the county of the
26 employer's residence or place of business, or in any other
27 county of the state which will, in the discretion of the
28 Deputy Chief Judge, be the most convenient for a hearing. The
29 hearing shall be conducted by a judge of compensation claims,
30 who shall, within 30 ~~14~~ days after final hearing or closure of
31 the hearing record, unless otherwise agreed by the parties,

1 enter a final order on the merits of the disputed issues
2 determine the dispute in a summary manner. The judge of
3 compensation claims may enter an abbreviated final order in
4 cases in which compensability is not disputed. Either party
5 may request separate findings of fact and conclusions of law.

6 At such hearing, the claimant and employer may each present
7 evidence in respect of such claim and may be represented by
8 any attorney authorized in writing for such purpose. When
9 there is a conflict in the medical evidence submitted at the
10 hearing, the provisions of s. 440.13 shall apply. The report
11 or testimony of the expert medical advisor shall be made a
12 part of the record of the proceeding and shall be given the
13 same consideration by the judge of compensation claims as is
14 accorded other medical evidence submitted in the proceeding;
15 and all costs incurred in connection with such examination and
16 testimony may be assessed as costs in the proceeding, subject
17 to the provisions of s. 440.13. No judge of compensation
18 claims may make a finding of a degree of permanent impairment
19 that is greater than the greatest permanent impairment rating
20 given the claimant by any examining or treating physician,
21 except upon stipulation of the parties.

22 (e) The order making an award or rejecting the claim,
23 referred to in this chapter as a "compensation order," shall
24 set forth the findings of ultimate facts and the mandate; and
25 the order need not include any other reason or justification
26 for such mandate. The compensation order shall be filed in the
27 Office of the Judges of Compensation Claims ~~division~~ at
28 Tallahassee. A copy of such compensation order shall be sent
29 by mail to the parties and attorneys of record at the last
30 known address of each, with the date of mailing noted thereon.

31

1 (f) Each judge of compensation claims is required to
2 submit a special report to the Deputy Chief Judge in each
3 contested workers' compensation case in which the case is not
4 determined within 30 ~~14~~ days of final hearing or closure of
5 the hearing record. Said form shall be provided by the
6 director of the Division of Administrative Hearings ~~Chief~~
7 ~~Judge~~ and shall contain the names of the judge of compensation
8 claims and of the attorneys involved and a brief explanation
9 by the judge of compensation claims as to the reason for such
10 a delay in issuing a final order. ~~The Chief Judge shall~~
11 ~~compile these special reports into an annual public report to~~
12 ~~the Governor, the Secretary of Labor and Employment Security,~~
13 ~~the Legislature, The Florida Bar, and the appellate district~~
14 ~~judicial nominating commissions.~~

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

17 (g)~~(h)~~ Notwithstanding any other provision of this
18 section, the judge of compensation claims may require the
19 appearance of the parties and counsel before her or him
20 without written notice for an emergency conference where there
21 is a bona fide emergency involving the health, safety, or
22 welfare of an employee. An emergency conference under this
23 section may result in the entry of an order or the rendering
24 of an adjudication by the judge of compensation claims.

25 (h)~~(i)~~ To expedite dispute resolution and to enhance
26 the self-executing features of the Workers' Compensation Law,
27 the Deputy Chief Judge shall make provision by rule or order
28 for the resolution of appropriate motions by judges of
29 compensation claims without oral hearing upon submission of
30 brief written statements in support and opposition, and for
31 expedited discovery and docketing.

1 (i)~~(j)~~ To further expedite dispute resolution and to
2 enhance the self-executing features of the system, those
3 petitions filed in accordance with s. 440.192 that involve a
4 claim for benefits of \$5,000 or less shall, in the absence of
5 compelling evidence to the contrary, be presumed to be
6 appropriate for expedited resolution under this paragraph; and
7 any other claim filed in accordance with s. 440.192, upon the
8 written agreement of both parties and application by either
9 party, may similarly be resolved under this paragraph. For
10 purposes of expedited resolution pursuant to this paragraph,
11 the Deputy Chief Judge shall make provision by rule or order
12 for expedited and limited discovery and expedited docketing in
13 such cases. At least 15 days prior to hearing, the parties
14 shall exchange and file with the judge of compensation claims
15 a pretrial outline of all issues, defenses, and witnesses on a
16 form adopted ~~promulgated~~ by the Deputy Chief Judge; provided,
17 in no event shall such hearing be held without 15 days'
18 written notice to all parties. No pretrial hearing shall be
19 held. The judge of compensation claims shall limit all
20 argument and presentation of evidence at the hearing to a
21 maximum of 30 minutes, and such hearings shall not exceed 30
22 minutes in length. Neither party shall be required to be
23 represented by counsel. The employer or carrier may be
24 represented by an adjuster or other qualified representative.
25 The employer or carrier and any witness may appear at such
26 hearing by telephone. The rules of evidence shall be liberally
27 construed in favor of allowing introduction of evidence.

28 (5)

29 (b) An appellant may be relieved of any necessary
30 filing fee by filing a verified petition of indigency for
31 approval as provided in s. 57.081(1) and may be relieved in

1 whole or in part from the costs for preparation of the record
2 on appeal if, within 15 days after the date notice of the
3 estimated costs for the preparation is served, the appellant
4 files with the judge of compensation claims a copy of the
5 designation of the record on appeal, and a verified petition
6 to be relieved of costs. A verified petition filed prior to
7 the date of service of the notice of the estimated costs shall
8 be deemed not timely filed. The verified petition relating to
9 record costs shall contain a sworn statement that the
10 appellant is insolvent and a complete, detailed, and sworn
11 financial affidavit showing all the appellant's assets,
12 liabilities, and income. Failure to state in the affidavit all
13 assets and income, including marital assets and income, shall
14 be grounds for denying the petition with prejudice. The Office
15 of the Judges of Compensation Claims ~~division~~ shall adopt
16 ~~promulgate~~ rules as may be required pursuant to this
17 subsection, including forms for use in all petitions brought
18 under this subsection. The appellant's attorney, or the
19 appellant if she or he is not represented by an attorney,
20 shall include as a part of the verified petition relating to
21 record costs an affidavit or affirmation that, in her or his
22 opinion, the notice of appeal was filed in good faith and that
23 there is a probable basis for the District Court of Appeal,
24 First District, to find reversible error, and shall state with
25 particularity the specific legal and factual grounds for the
26 opinion. Failure to so affirm shall be grounds for denying the
27 petition. A copy of the verified petition relating to record
28 costs shall be served upon all interested parties, ~~including~~
29 ~~the division and the Office of the General Counsel, Department~~
30 ~~of Labor and Employment Security, in Tallahassee.~~ The judge of
31 compensation claims shall promptly conduct a hearing on the

1 verified petition relating to record costs, giving at least 15
2 days' notice to the appellant, the division, and all other
3 interested parties, all of whom shall be parties to the
4 proceedings. The judge of compensation claims may enter an
5 order without such hearing if no objection is filed by an
6 interested party within 20 days from the service date of the
7 verified petition relating to record costs. Such proceedings
8 shall be conducted in accordance with the provisions of this
9 section and with the workers' compensation rules of procedure,
10 to the extent applicable. In the event an insolvency petition
11 is granted, the judge of compensation claims shall direct the
12 division to pay record costs and filing fees from the Workers'
13 Compensation Trust Fund pending final disposition of the costs
14 of appeal. The division may transcribe or arrange for the
15 transcription of the record in any proceeding for which it is
16 ordered to pay the cost of the record. ~~In the event the~~
17 ~~insolvency petition is denied, the judge of compensation~~
18 ~~claims may enter an order requiring the petitioner to~~
19 ~~reimburse the division for costs incurred in opposing the~~
20 ~~petition, including investigation and travel expenses.~~

21 Section 20. Section 440.271, Florida Statutes, is
22 amended to read:

23 440.271 Appeal of order of judge of compensation
24 claims.--Review of any order of a judge of compensation claims
25 entered pursuant to this chapter shall be by appeal to the
26 District Court of Appeal, First District. To promote
27 consistency and uniformity in the application of this chapter,
28 the District Court of Appeal, First District, shall establish
29 a specialized division to hear all appeals of orders of judges
30 of compensation claims. The court may structure the division
31 to hear workers' compensation cases exclusively or in addition

1 to other appeals. Appeals shall be filed in accordance with
2 rules of procedure prescribed by the Supreme Court for review
3 of such orders. The division shall be given notice of any
4 proceedings pertaining to s. 440.25, regarding indigency, or
5 s. 440.49, regarding the Special Disability Trust Fund, and
6 shall have the right to intervene in any proceedings.

7 Section 21. Subsection (2) of section 440.29, Florida
8 Statutes, is amended to read:

9 440.29 Procedure before the judge of compensation
10 claims.--

11 (2) Hearings before the judge of compensation claims
12 shall be open to the public, and the Deputy Chief Judge is
13 authorized to designate the manner in which particular types
14 of hearings are recorded and reported and, when necessary, to
15 contract for the reporting of such hearings. The Deputy Chief
16 Judge shall arrange for the preparation of a record of the
17 hearings and other proceedings before judges of compensation
18 claims, as necessary, and is authorized to allow for the
19 attendance of court reporters at hearings, for preparation of
20 transcripts of testimony, for copies of any instrument, and
21 for other reporting or recording services. The Deputy Chief
22 Judge may charge the same fees allowed by law or court rule to
23 reporters, persons preparing transcripts, or clerks of courts
24 of this state for like services.

25 Section 22. Paragraph (b) of subsection (3) of section
26 440.34, Florida Statutes, is amended to read:

27 440.34 Attorney's fees; costs.--

28 (3) If the claimant should prevail in any proceedings
29 before a judge of compensation claims or court, there shall be
30 taxed against the employer the reasonable costs of such
31 proceedings, not to include the attorney's fees of the

1 claimant. A claimant shall be responsible for the payment of
2 her or his own attorney's fees, except that a claimant shall
3 be entitled to recover a reasonable attorney's fee from a
4 carrier or employer:

5 (b) In any case in which the employer or carrier files
6 a response to petition ~~notice of denial~~ with the Office of the
7 Judges of Compensation Claims ~~division~~ and the injured person
8 has employed an attorney in the successful prosecution of the
9 claim; or

10
11 In applying the factors set forth in subsection (1) to cases
12 arising under paragraphs (a), (b), (c), and (d), the judge of
13 compensation claims must only consider only such benefits and
14 the time reasonably spent in obtaining them as were secured
15 for the claimant within the scope of paragraphs (a), (b), (c),
16 and (d).

17 Section 23. Section 440.345, Florida Statutes, is
18 amended to read:

19 440.345 Reporting of attorney's fees.--All fees paid
20 to attorneys for services rendered under this chapter shall be
21 reported to the Office of the Judges of Compensation Claims
22 ~~division~~ as the Office of the Judges of Compensation Claims
23 ~~division~~ requires by rule. The Office of the Judges of
24 Compensation Claims ~~division~~ shall annually summarize such
25 data in a report to the Workers' Compensation Oversight Board.

26 Section 24. Paragraphs (b), (c), and (f) of subsection
27 (1) of section 440.38, Florida Statutes, are amended to read:

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

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

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

1 pursuant to s. 440.385. Any employer securing compensation in
2 accordance with the provisions of this paragraph shall be
3 known as a self-insurer and shall be classed as a carrier of
4 her or his own insurance.

5 2. If the employer fails to maintain the foregoing
6 requirements, the division shall revoke the employer's
7 authority to self-insure, unless the employer provides to the
8 division the certified opinion of an independent actuary who
9 is a member of the American Society of Actuaries as to the
10 actuarial present value of the employer's determined and
11 estimated future compensation payments based on cash reserves,
12 using a 4-percent discount rate, and a qualifying security
13 deposit equal to 1.5 times the value so certified. The
14 employer shall thereafter annually provide such a certified
15 opinion until such time as the employer meets the requirements
16 of subparagraph 1. The qualifying security deposit shall be
17 adjusted at the time of each such annual report. Upon the
18 failure of the employer to timely provide such opinion or to
19 timely provide a security deposit in an amount equal to 1.5
20 times the value certified in the latest opinion, the division
21 shall then revoke such employer's authorization to
22 self-insure, and such failure shall be deemed to constitute an
23 immediate serious danger to the public health, safety, or
24 welfare sufficient to justify the summary suspension of the
25 employer's authorization to self-insure pursuant to s. 120.68.

26 3. Upon the suspension or revocation of the employer's
27 authorization to self-insure, the employer shall provide to
28 the division and to the Florida Self-Insurers Guaranty
29 Association, Incorporated, created pursuant to s. 440.385 the
30 certified opinion of an independent actuary who is a member of
31 the American Society of Actuaries of the actuarial present

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

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

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

31

1 ~~b. Certificates of deposit with financial~~
2 ~~institutions, the deposits of which are insured through the~~
3 ~~Federal Deposit Insurance Corporation or the Federal Savings~~
4 ~~and Loan Insurance Corporation.~~

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

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

11 ~~e. Securities issued by this state and backed by the~~
12 ~~full faith and credit of this state.~~

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

1 before December 31, 2001, or upon the maturity of existing
 2 security deposits, whichever occurs later, the sale of any
 3 security at then prevailing market rates, or the withdrawal of
 4 any funds represented by any certificate of deposit forming
 5 part of the qualifying security deposit. The division may
 6 specify by rule the amount of the qualifying security deposit
 7 required prior to authorizing an employer to self-insure and
 8 the amount of net worth required for an employer to qualify
 9 for authorization to self-insure;

10 (c) By entering into a contract with a public utility
 11 under an approved utility-provided self-insurance program as
 12 set forth in s. 624.46225 ~~440.571~~ in effect as of July 1,
 13 1983. The division shall adopt rules to implement this
 14 paragraph;

15 (f) By entering into a contract with an individual
 16 self-insurer under an approved individual
 17 self-insurer-provided self-insurance program as set forth in
 18 s. 624.46225. The division may adopt rules to administer
 19 ~~implement~~ this subsection.

20 Section 25. Subsections (3), (5), (6), and (7) of
 21 section 440.44, Florida Statutes, are amended to read:

22 440.44 Workers' compensation; staff organization.--

23 (3) EXPENDITURES.--The division and the director of
 24 the Division of Administrative Hearings ~~Chief Judge~~ shall make
 25 such expenditures, including expenditures for personal
 26 services and rent at the seat of government and elsewhere, for
 27 law books; for telephone services and WATS lines; for books of
 28 reference, periodicals, equipment, and supplies; and for
 29 printing and binding as may be necessary in the administration
 30 of this chapter. All expenditures in the administration of
 31 this chapter shall be allowed and paid as provided in s.

1 440.50 upon the presentation of itemized vouchers therefor
2 approved by the division or the director of the Division of
3 Administrative Hearings ~~Chief Judge~~.

4 (5) OFFICE.--The division and the Deputy Chief Judge
5 shall maintain and keep open during reasonable business hours
6 an office, which shall be provided in the Capitol or some
7 other suitable building in the City of Tallahassee, for the
8 transaction of business under this chapter, at which office
9 the official records and papers shall be kept. The office
10 shall be furnished and equipped. The division, any judge of
11 compensation claims, or the Deputy Chief Judge may hold
12 sessions and conduct hearings at any place within the state.
13 The Office of the Judges of Compensation Claims shall maintain
14 the 17 district offices, 31 judges of compensation claims, and
15 31 mediators as they exist on June 30, 2001.

16 (6) SEAL.--The division ~~and~~ the judges of
17 compensation claims, ~~and the Chief Judge~~ shall have a seal
18 upon which shall be inscribed the words "State of Florida
19 Department of Insurance Labor and Employment Security--Seal"
20 and "Division of Administrative Hearings--Seal,"
21 respectively."

22 (7) DESTRUCTION OF OBSOLETE RECORDS.--The division is
23 expressly authorized to provide by regulation for and to
24 destroy obsolete records of the division ~~and commission~~. The
25 Division of Administrative Hearings is expressly authorized to
26 provide by regulation for and to destroy obsolete records of
27 the Office of the Judges of Compensation Claims.

28 Section 26. Section 440.442, Florida Statutes, is
29 amended to read:

30 440.442 Code of Judicial Conduct.--The Deputy Chief
31 Judge, and judges of compensation claims shall observe and

1 abide by the Code of Judicial Conduct as adopted by the
 2 Florida Supreme Court ~~provided in this section.~~ Any material
 3 violation of a provision of the Code of Judicial Conduct shall
 4 constitute either malfeasance or misfeasance in office and
 5 shall be grounds for suspension and removal of the Deputy ~~such~~
 6 Chief Judge, or judge of compensation claims by the Governor.

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

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

17 ~~(a) A judge should respect and comply with the law and~~
 18 ~~should conduct himself or herself at all times in a manner~~
 19 ~~that promotes public confidence in the integrity and~~
 20 ~~impartiality of the judiciary.~~

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

28 ~~(3) A JUDGE SHOULD PERFORM THE DUTIES OF OFFICE~~
 29 ~~IMPARTIALLY AND DILIGENTLY.--The judicial duties of a judge~~
 30 ~~take precedence over all his or her other activities. The~~
 31 ~~judicial duties include all the duties of office prescribed by~~

1 ~~law. In the performance of these duties, the following~~
2 ~~standards with respect to adjudicative responsibilities apply:~~

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

6 ~~(b) A judge should maintain order and decorum in~~
7 ~~proceedings.~~

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

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

21 ~~(a) Speak, write, lecture, teach, and participate in~~
22 ~~other activities concerning the law, the legal system, and the~~
23 ~~administration of justice.~~

24 ~~(b) Appear at a public hearing before an executive or~~
25 ~~legislative body or official on matters concerning the law,~~
26 ~~the legal system, and the administration of justice, and may~~
27 ~~otherwise consult with an executive or legislative body or~~
28 ~~official, but only on matters concerning the administration of~~
29 ~~justice.~~

30 ~~(c) Serve as a member, officer, or director of an~~
31 ~~organization or governmental agency devoted to the improvement~~

1 ~~of the law, the legal system, or the administration of justice~~
2 ~~and assist such an organization in raising funds and may~~
3 ~~participate in their management and investment, but should not~~
4 ~~personally participate in public fundraising activities.~~

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

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

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

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

25 ~~1. A judge should not serve if it is likely that the~~
26 ~~organization will be engaged in proceedings that would~~
27 ~~ordinarily come before him or her or will be regularly engaged~~
28 ~~in adversary proceedings in any court.~~

29 ~~2. A judge should not solicit funds for any~~
30 ~~educational, religious, charitable, fraternal, or civil~~
31 ~~organization, or use or permit the use of the prestige of the~~

1 ~~office for that purpose, but may be listed as an officer,~~
2 ~~director, or trustee of such an organization. A judge should~~
3 ~~not be a speaker or a guest of honor at any organization's~~
4 ~~fundraising events, but may attend such events.~~

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

9 ~~(c) Financial activities.~~

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

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

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

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

1 ~~a. A judge may accept a gift incident to a public~~
2 ~~testimonial to him or her; books supplied by publishers on a~~
3 ~~complimentary basis for official use; or an invitation to the~~
4 ~~judge and spouse to attend a bar-related function or activity~~
5 ~~devoted to the improvement of the law, the legal system, or~~
6 ~~the administration of justice;~~

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

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

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

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

30
31

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

4 ~~8. Information required by a judge in which his or her~~
5 ~~judicial capacity should not be used or disclosed by the judge~~
6 ~~in financial dealings or for any other purpose not related to~~
7 ~~his or her judicial duties.~~

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

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

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

24 ~~2. Expense reimbursement: Expense reimbursement~~
25 ~~should be limited to the actual cost of travel, food, and~~
26 ~~lodging reasonably incurred by the judge and, where~~
27 ~~appropriate to the occasion, to his or her spouse. Any payment~~
28 ~~in excess of such an amount is compensation.~~

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

30 ~~1. Income and assets: A judge shall file such public~~
31 ~~reports as may be required by law for all public officials to~~

1 ~~comply fully with the provisions of s. 8, Art. II of the State~~
2 ~~Constitution. The form for public financial disclosure shall~~
3 ~~be that recommended or adopted by the Florida Commission on~~
4 ~~Ethics for use by all public officials. The form shall be~~
5 ~~filed in the office of the Commission on Ethics on the date~~
6 ~~prescribed by law.~~

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

13 Section 27. Section 440.45, Florida Statutes, is
14 amended to read:

15 440.45 Office of the Judges of Compensation Claims.--

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

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

13 (b) The current term of the Chief Judge of
 14 Compensation Claims shall expire October 1, 2001. Effective
 15 October 1, 2001, the position of Deputy Chief Judge of
 16 Compensation Claims is created.

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

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

31

1 1. Five members, at least one of whom must be a member
2 of a minority group as defined in s. 288.703(3), one of each
3 who resides in each of the territorial jurisdictions of the
4 district courts of appeal, appointed by the Board of Governors
5 of The Florida Bar from among The Florida Bar members who are
6 engaged in the practice of law. On July 1, 1999, the term of
7 office of each person appointed by the Board of Governors of
8 The Florida Bar to the commission expires. The Board of
9 Governors shall appoint members who reside in the odd-numbered
10 district court of appeal jurisdictions to 4-year terms each,
11 beginning July 1, 1999, and members who reside in the
12 even-numbered district court of appeal jurisdictions to 2-year
13 terms each, beginning July 1, 1999. Thereafter, each member
14 shall be appointed for a 4-year term;

15 2. Five electors, at least one of whom must be a
16 member of a minority group as defined in s. 288.703(3), one of
17 each who resides in each of the territorial jurisdictions of
18 the district courts of appeal, appointed by the Governor. On
19 July 1, 1999, the term of office of each person appointed by
20 the Governor to the commission expires. The Governor shall
21 appoint members who reside in the odd-numbered district court
22 of appeal jurisdictions to 2-year terms each, beginning July
23 1, 1999, and members who reside in the even-numbered district
24 court of appeal jurisdictions to 4-year terms each, beginning
25 July 1, 1999. Thereafter, each member shall be appointed for a
26 4-year term; and

27 3. Five electors, at least one of whom must be a
28 member of a minority group as defined in s. 288.703(3), one of
29 each who resides in the territorial jurisdictions of the
30 district courts of appeal, selected and appointed by a
31 majority vote of the other 10 members of the commission. On

1 October 1, 1999, the term of office of each person appointed
2 to the commission by its other members expires. A majority of
3 the other members of the commission shall appoint members who
4 reside in the odd-numbered district court of appeal
5 jurisdictions to 2-year terms each, beginning October 1, 1999,
6 and members who reside in the even-numbered district court of
7 appeal jurisdictions to 4-year terms each, beginning October
8 1, 1999. Thereafter, each member shall be appointed for a
9 4-year term.

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

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

1 term of office. The Governor shall review the commission's
2 report and may reappoint the judge for an additional 4-year
3 term. If the Governor does not reappoint the judge, the
4 Governor shall inform the commission. The judge shall remain
5 in office until the Governor has appointed a successor judge
6 in accordance with paragraphs (a) and (b). If a vacancy occurs
7 during a judge's unexpired term, the statewide nominating
8 commission does not find the judge's performance is
9 satisfactory, or the Governor does not reappoint the judge,
10 the Governor shall appoint a successor judge for a term of 4
11 years in accordance with paragraph (b).

12 (d) The Governor may appoint any attorney who has at
13 least 5 years of experience in the practice of law in this
14 state to serve as a judge of compensation claims pro hac vice
15 in the absence or disqualification of any full-time judge of
16 compensation claims or to serve temporarily as an additional
17 judge of compensation claims in any area of the state in which
18 the Governor determines that a need exists for such an
19 additional judge. However, an attorney who is so appointed by
20 the Governor may not serve for a period of more than 120
21 successive days.

22 (e) The director of the Division of Administrative
23 Hearings may receive or initiate complaints, conduct
24 investigations, and dismiss complaints against the Deputy
25 Chief Judge and the judges of compensation claims on the basis
26 of the Code of Judicial Conduct. The director may recommend to
27 the Governor the removal of the Deputy Chief Judge or a judge
28 of compensation claims or recommend the discipline of a judge
29 whose conduct during his or her term of office warrants such
30 discipline. For purposes of this section, the term
31 "discipline" includes reprimand, fine, and suspension with or

1 without pay. At the conclusion of each investigation, the
2 director shall submit preliminary findings of fact and
3 recommendations to the judge of compensation claims who is the
4 subject of the complaint. The judge of compensation claims has
5 20 days within which to respond to the preliminary findings.
6 The response and the director's rebuttal to the response must
7 be included in the final report submitted to the Governor.

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

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

31

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

15 ~~(5)(6)~~ Not later than December 1 of each year, the
 16 Office of the Judges of Compensation Claims ~~and the Division~~
 17 ~~of Workers' Compensation~~ shall ~~jointly~~ issue a written report
 18 to the Governor, the House of Representatives, ~~and~~ the Senate,
 19 The Florida Bar, and the statewide nominating commission
 20 summarizing the amount, cost, and outcome of all litigation
 21 resolved in the previous fiscal ~~prior~~ year, summarizing the
 22 disposition of mediation conferences, the number of mediation
 23 conferences held, the number of continuances granted for
 24 mediations and final hearings, the number and outcome of
 25 litigated cases, the amount of attorney's fees paid in each
 26 case according to order year and accident year, and the number
 27 of final orders not issued within 30 days after the final
 28 hearing or closure of the hearing record, ~~applications and~~
 29 ~~motions for mediation conferences~~ and recommending changes or
 30 improvements to the dispute resolution elements of the
 31 Workers' Compensation Law and regulations. If the Deputy Chief

1 Judge finds that judges generally are unable to meet a
2 particular statutory requirement for reasons beyond their
3 control, the Deputy Chief Judge shall submit such findings and
4 any recommendations to the Legislature.

5 Section 28. Section 440.47, Florida Statutes, is
6 amended to read:

7 440.47 Travel expenses.--The Deputy Chief Judge,
8 judges of compensation claims, and employees of the department
9 shall be reimbursed for travel expenses as provided in s.
10 112.061. Such expenses shall be sworn to by the person who
11 incurred the same and shall be allowed and paid as provided in
12 s. 440.50 upon the presentation of vouchers therefor approved
13 by the director of the Division of Administrative Hearings
14 ~~Chief Judge~~ or the department, whichever is applicable.

15 Section 29. Section 440.59, Florida Statutes, is
16 amended to read:

17 440.59 Reporting requirements.--

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

1 ~~(2) The Division of Workers' Compensation of the~~
2 ~~Department of Labor and Employment Security shall complete on~~
3 ~~a quarterly basis an analysis of the previous quarter's~~
4 ~~injuries which resulted in workers' compensation claims. The~~
5 ~~analysis shall be broken down by risk classification, shall~~
6 ~~show for each such risk classification the frequency and~~
7 ~~severity for the various types of injury, and shall include an~~
8 ~~analysis of the causes of such injuries. The division shall~~
9 ~~distribute to each employer and self-insurer in the state~~
10 ~~covered by the Workers' Compensation Law the data relevant to~~
11 ~~its workforce. The report shall also be distributed to the~~
12 ~~insurers authorized to write workers' compensation insurance~~
13 ~~in the state.~~

14 (2)~~(3)~~ The division shall annually prepare a closed
15 claim report for all claims for which the employee lost more
16 than 7 days from work and shall submit a copy of the report to
17 the Governor, the President of the Senate, the Speaker of the
18 House of Representatives, the Democratic and Republican
19 Leaders of the Senate and the House of Representatives, and
20 the chairs of the legislative committees having jurisdiction
21 over workers' compensation on or before September 15 of each
22 year. The closed claim report shall include, but not be
23 limited to, an analysis of all claims closed during the
24 preceding year as to the date of accident, age of the injured
25 employee, occupation of the injured employee, type of injury,
26 body part affected, type and duration of indemnity benefits
27 paid, permanent impairment rating, medical benefits identified
28 by type of health care provider, and type and cost of any
29 rehabilitation benefits provided.

30 (3)~~(4)~~ The division shall prepare an annual report for
31 all claims for which the employee lost more than 7 days from

1 work and shall submit a copy of the report to the Governor,
 2 the President of the Senate, the Speaker of the House of
 3 Representatives, the Democratic and Republican Leaders of the
 4 Senate and the House of Representatives, and the chairs of the
 5 legislative committees having jurisdiction over workers'
 6 compensation, on or before September 15 of each year. The
 7 annual report shall include a status report on all cases
 8 involving work-related injuries in the previous 10 years. The
 9 annual report shall include, but not be limited to, the number
 10 of open and closed cases, the number of cases receiving
 11 various types of benefits, and the cash and medical benefits
 12 paid between the date of injury and the evaluation date, ~~the~~
 13 ~~number of litigated cases, and the amount of attorney's fees~~
 14 ~~paid~~ in each case.

15 ~~(5) The Chief Judge must prepare an annual report~~
 16 ~~summarizing the disposition of mediation conferences and must~~
 17 ~~submit the report to the Governor, the President of the~~
 18 ~~Senate, the Speaker of the House of Representatives, the~~
 19 ~~Democratic and Republican Leaders of the Senate and the House~~
 20 ~~of Representatives, and the chairs of the legislative~~
 21 ~~committees having jurisdiction over workers' compensation, on~~
 22 ~~or before September 15 of each year.~~

23 Section 30. Section 440.593, Florida Statutes, is
 24 amended to read:

25 440.593 Electronic reporting.--

26 (1) The division may establish ~~by rule~~ an electronic
 27 reporting system requiring or authorizing ~~whereby~~ an employer
 28 or carrier ~~is required~~ to submit required forms, reports, or
 29 other information electronically rather than by other means
 30 ~~filing otherwise required forms or reports~~. The division may
 31 ~~by rule~~ establish different deadlines for submitting forms,

1 reports, or reporting information to the division, or to its
2 authorized agent, via the electronic reporting system than are
3 otherwise required when reporting information by other means.

4 (2) The division may require any carrier to submit
5 data electronically, either directly or through a third-party
6 vendor, and may require any carrier or vendor submitting data
7 to the division electronically to be certified by the
8 division. The division may specify performance requirements
9 for any carrier or vendor submitting data electronically.

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

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

16 (5) The division is authorized to adopt rules to
17 administer this section.

18 Section 31. Section 489.114, Florida Statutes, is
19 amended to read:

20 489.114 Evidence of workers' compensation
21 coverage.--Except as provided in s. 489.115(5)(d),any person,
22 business organization, or qualifying agent engaged in the
23 business of contracting in this state and certified or
24 registered under this part shall, as a condition precedent to
25 the issuance or renewal of a certificate, registration, or
26 certificate of authority of the contractor, provide to the
27 Construction Industry Licensing Board, as provided by board
28 rule, evidence of workers' compensation coverage pursuant to
29 chapter 440. In the event that the Division of Workers'
30 Compensation of the Department of Labor and Employment
31 Security receives notice of the cancellation of a policy of

1 workers' compensation insurance insuring a person or entity
 2 governed by this section, the Division of Workers'
 3 Compensation shall certify and identify all persons or
 4 entities by certification or registration license number to
 5 the department after verification is made by the Division of
 6 Workers' Compensation that such cancellation has occurred or
 7 that persons or entities governed by this section are no
 8 longer covered by workers' compensation insurance. Such
 9 certification and verification by the Division of Workers'
 10 Compensation shall result solely from records furnished to the
 11 Division of Workers' Compensation by the persons or entities
 12 governed by this section. The department shall notify the
 13 persons or entities governed by this section who have been
 14 determined to be in noncompliance with chapter 440, and the
 15 persons or entities notified shall provide certification of
 16 compliance with chapter 440 to the department and pay an
 17 administrative fine as provided by rule. The failure to
 18 maintain workers' compensation coverage as required by law
 19 shall be grounds for the board to revoke, suspend, or deny the
 20 issuance or renewal of a certificate, registration, or
 21 certificate of authority of the contractor under the
 22 provisions of s. 489.129.

23 Section 32. Paragraph (d) is added to subsection (5)
 24 of section 489.115, Florida Statutes, to read:

25 489.115 Certification and registration; endorsement;
 26 reciprocity; renewals; continuing education.--

27 (5)

28 (d) An applicant for initial issuance of a certificate
 29 or registration shall submit as a prerequisite to qualifying
 30 for an exemption from workers' compensation coverage
 31 requirements under s. 440.05 an affidavit attesting to the

1 fact that the applicant will obtain an exemption within 30
2 days after the date the initial certificate or registration is
3 issued by the board.

4 Section 33. Section 489.510, Florida Statutes, is
5 amended to read:

6 489.510 Evidence of workers' compensation
7 coverage.--Except as provided in s. 489.515(3)(b),any person,
8 business organization, or qualifying agent engaged in the
9 business of contracting in this state and certified or
10 registered under this part shall, as a condition precedent to
11 the issuance or renewal of a certificate or registration of
12 the contractor, provide to the Electrical Contractors'
13 Licensing Board, as provided by board rule, evidence of
14 workers' compensation coverage pursuant to chapter 440. In
15 the event that the Division of Workers' Compensation of the
16 Department of Labor and Employment Security receives notice of
17 the cancellation of a policy of workers' compensation
18 insurance insuring a person or entity governed by this
19 section, the Division of Workers' Compensation shall certify
20 and identify all persons or entities by certification or
21 registration license number to the department after
22 verification is made by the Division of Workers' Compensation
23 that such cancellation has occurred or that persons or
24 entities governed by this section are no longer covered by
25 workers' compensation insurance. Such certification and
26 verification by the Division of Workers' Compensation shall
27 result solely from records furnished to the Division of
28 Workers' Compensation by the persons or entities governed by
29 this section. The department shall notify the persons or
30 entities governed by this section who have been determined to
31 be in noncompliance with chapter 440, and the persons or

1 entities notified shall provide certification of compliance
2 with chapter 440 to the department and pay an administrative
3 fine as provided by rule. The failure to maintain workers'
4 compensation coverage as required by law shall be grounds for
5 the board to revoke, suspend, or deny the issuance or renewal
6 of a certificate or registration of the contractor under the
7 provisions of s. 489.533.

8 Section 34. Subsection (3) of section 489.515, Florida
9 Statutes, is amended to read:

10 489.515 Issuance of certificates; registrations.--

11 (3)(a) As a prerequisite to the initial issuance or
12 the renewal of a certificate or registration, the applicant
13 shall submit an affidavit on a form provided by the board
14 attesting to the fact that the applicant has obtained both
15 workers' compensation insurance or an acceptable exemption
16 certificate issued by the department and public liability and
17 property damage insurance for the health, safety, and welfare
18 of the public in amounts determined by rule of the board. The
19 board shall by rule establish a procedure to verify the
20 accuracy of such affidavits based upon a random audit method.

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

28 Section 35. Section 627.0915, Florida Statutes, is
29 amended to read:

30 627.0915 Rate filings; workers' compensation,
31 drug-free workplace, and safe employers.--The Department of

1 Insurance shall approve rating plans for workers' compensation
2 insurance that give specific identifiable consideration in the
3 setting of rates to employers that either implement a
4 drug-free workplace program pursuant to rules adopted by the
5 Division of Workers' Compensation of the Department of Labor
6 and Employment Security or implement a safety program pursuant
7 to provisions of the rating plan approved by the Division of
8 Safety pursuant to rules adopted by the Division of Safety of
9 the Department of Labor and Employment Security or implement
10 both a drug-free workplace program and a safety program. ~~The~~
11 ~~Division of Safety may by rule require that the client of a~~
12 ~~help supply services company comply with the essential~~
13 ~~requirements of a workplace safety program as a condition for~~
14 ~~receiving a premium credit.~~The plans must ~~take effect January~~
15 ~~1, 1994,~~ must be actuarially sound, and must state the savings
16 anticipated to result from such drug-testing and safety
17 programs.

18 Section 36. Paragraph (p) of subsection (4) of section
19 627.311, Florida Statutes, is amended to read:

20 627.311 Joint underwriters and joint reinsurers.--

21 (4)

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

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

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

30 a. A violation of the criminal law, unless the member
31 had reasonable cause to believe her or his conduct was not

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

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

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

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

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

23 Section 37. Effective July 1, 2001, section 627.914,
24 Florida Statutes, is amended to read:

25 627.914 Reports of information by workers'
26 compensation insurers required.--

27 (1) The department shall adopt ~~promulgate~~ rules and
28 statistical plans that must ~~which shall~~ thereafter be used by
29 each insurer and self-insurance fund as defined in s. 624.461
30 in the recording and reporting of loss, expense, and claims
31 experience, in order that the experience of all insurers and

1 self-insurance funds ~~self-insurers~~ may be made available at
 2 least annually in such form and detail as may be necessary to
 3 aid the department in determining whether Florida experience
 4 for workers' compensation insurance is sufficient for
 5 establishing rates.

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

12 ~~(a) Premiums written;~~

13 ~~(b) Premiums earned;~~

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

15 ~~(d) Losses paid;~~

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

17 ~~(f) The ratio of allocated loss adjustment expenses to~~
 18 ~~losses paid;~~

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

20 ~~(h) The ratio of unallocated loss adjustment expenses~~
 21 ~~to losses paid;~~

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

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

26 ~~(k) The number of claims outstanding as of December 31~~
 27 ~~of each year;~~

28 ~~(l) The total amount of losses unpaid as of December~~
 29 ~~31 of each year;~~

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

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

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

12 (2)(4) Each insurer and self-insurance fund authorized
13 to write a policy of workers' compensation insurance shall
14 transmit the following information ~~for paragraphs (a), (b),~~
15 ~~(d), and (e)~~ annually on both Florida experience and
16 nationwide experience separately:

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

22
23 A report of this information shall be filed no later than July
24 ~~April~~ 1 of each year. All reports shall be filed in
25 accordance with standard reporting procedures for insurers,
26 which procedures have received approval by the department, and
27 shall contain data for the most recent policy period
28 available. A statistical or rating organization may be used
29 by insurers and self-insurance funds to report the data
30 required by this section. The statistical or rating
31 organization shall report each data element in the aggregate

1 only for insurers and self-insurance funds required to report
2 under this section who elect to have the ~~rating~~ organization
3 report on their behalf. Such insurers and self-insurance funds
4 shall be named in the report.

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

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

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

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

21 ~~(4)(6)~~ The department shall provide a summary of
22 information provided pursuant to subsection ~~subsections~~ (2)
23 ~~and (4)~~ in its annual report.

24 Section 38. (1) The Office of the Judges of
25 Compensation Claims is transferred by a type two transfer, as
26 defined in s. 20.06(2), Florida Statutes, from the Department
27 of Labor and Employment Security to the Division of
28 Administrative Hearings of the Department of Management
29 Services.

30 (2) Four positions within the Division of Workers'
31 Compensation of the Department of Labor and Employment

1 Security responsible for coding or entering data contained
2 within final orders issued by the judges of compensation
3 claims are transferred by a type two transfer, as defined in
4 s. 20.06(2), Florida Statutes, to the Office of the Judges of
5 Compensation Claims within the Division of Administrative
6 Hearings of the Department of Management Services.

7 (3) Ten positions within the Division of Workers'
8 Compensation of the Department of Labor and Employment
9 Security responsible for receiving and preparing docketing
10 orders for the petitions for benefits and for receiving and
11 entering data related to the petitions for benefits are
12 transferred by a type two transfer, as defined in s. 20.06(2),
13 Florida Statutes, to the Office of the Judges of Compensation
14 Claims within the Division of Administrative Hearings of the
15 Department of Management Services.

16 (4) Four positions within the Division of Workers'
17 Compensation of the Department of Labor and Employment
18 Security responsible for financial management, accounting, and
19 budgeting for the Office of the Judges of Compensation Claims
20 are transferred by a type two transfer, as defined in s.
21 20.06(2), Florida Statutes, to the Office of the Judges of
22 Compensation Claims within the Division of Administrative
23 Hearings of the Department of Management Services.

24 Section 39. Except as otherwise provided herein, this
25 act shall take effect October 1, 2001.

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