

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.02, F.S.; revising definitions;
4 amending s. 440.06, F.S.; requiring employers
5 to secure compensation; amending s. 440.09,
6 F.S.; limiting compensation for certain
7 impairments; requiring certain entities
8 actively engaged in the construction industry
9 to secure payment of compensation under chapter
10 440, F.S., after a certain date; amending s.
11 440.10, F.S.; specifying liability for
12 compensation; creating s. 440.1025, F.S.;
13 providing for consideration of a public
14 employer workplace safety program in
15 rate-setting; amending s. 440.11, F.S.;
16 providing for exclusiveness of liability;
17 amending s. 440.13, F.S.; providing an
18 additional criterion for determining certain
19 value of nonprofessional attendant care
20 provided by a family member; requiring carriers
21 to allow employees to change physicians under
22 certain circumstances; specifying payments for
23 independent medical examinations; deleting
24 selection of independent medical examiner
25 criteria; specifying the number of medical
26 opinions admissible into evidence; providing an
27 exception to certain recourse for payment for
28 services rendered; amending s. 440.134, F.S.;
29 revising a definition; revising certain
30 grievance procedures for workers' compensation
31 managed care arrangements; amending s. 440.14,

1 F.S.; providing for determination of pay;
2 amending s. 440.15, F.S.; revising criteria for
3 payment of compensation for permanent total
4 disability; revising criteria for payment of
5 permanent impairment and wage-loss benefits;
6 amending s. 440.151, F.S.; providing for
7 compensation for occupational diseases;
8 amending s. 440.185, F.S.; requiring additional
9 information in a report of injury; amending s.
10 440.191, F.S.; including managed care
11 arrangements under provisions relating to the
12 Employee Assistance and Ombudsman Office;
13 revising procedures for petitions for benefits
14 under the office; amending s. 440.192, F.S.;
15 revising procedures for resolving benefit
16 disputes; transferring duties and
17 responsibilities of the Division of Workers'
18 Compensation to the Office of the Judges of
19 Compensation Claims; amending s. 440.20, F.S.;
20 specifying time for payment of compensation;
21 prohibiting approval of settlement proposals
22 providing for attorney's fees in excess of
23 certain amounts; amending s. 440.25, F.S.;
24 limiting continuances under procedures for
25 mediation and hearings; providing for
26 selections of mediators by the Chief Judge;
27 providing for holding mediation conferences
28 instead of mediation hearings under certain
29 circumstances; providing for completion of
30 pretrial stipulations; authorizing a judge of
31 compensation claims to sanction certain parties

1 under certain circumstances; requiring a judge
2 of compensation claims to order a pretrial
3 hearing for certain purposes under certain
4 circumstances; revising final hearing time
5 limitations and procedures; deleting a
6 requirement that judges of compensation claims
7 adopt and enforce certain uniform local rules;
8 specifying resolution of determination of pay
9 claims; requiring resolution of certain claims
10 through an expedited dispute resolution
11 process; providing for dismissal of certain
12 petitions for lack of prosecution under certain
13 circumstances; amending s. 440.29, F.S. ;
14 providing for receipt into evidence of medical
15 reports from independent medical examiners;
16 amending s. 440.34, F.S. ; providing for limited
17 additional attorney's fees in medical-only
18 cases; prohibiting approval of attorney's fees
19 in excess of certain amounts; deleting criteria
20 for determining certain attorney's fees;
21 amending s. 440.345, F.S. ; requiring a summary
22 report of attorney's fees to the Governor and
23 the Legislature; amending s. 440.39, F.S. ;
24 specifying duties of carriers with respect to
25 certain evidence; amending s. 440.4416, F.S. ;
26 revising membership, member criteria, terms,
27 and meetings requirements of the Workers'
28 Compensation Oversight Board; deleting an
29 obsolete provision; providing additional
30 reporting requirements for the board; amending
31 s. 627.0915, F.S. ; deleting obsolete

1 provisions; providing that determinations under
2 ss. 112.18, 112.181, 112.19, F.S., are not
3 affected; repealing s. 440.45(3), F.S.,
4 relating to rotating docketing judges of
5 compensation claims; providing severability;
6 providing an effective date.

7

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

9

10 Section 1. Subsection (1), paragraph (b) of subsection
11 (14), and subsection (37) of section 440.02, Florida Statutes,
12 are amended to read:

13 440.02 Definitions.--When used in this chapter, unless
14 the context clearly requires otherwise, the following terms
15 shall have the following meanings:

16 (1) "Accident" means only an unexpected or unusual
17 event or result that happens suddenly. A mental or nervous
18 injury due to stress, fright, or excitement only, or
19 disability or death due to the accidental acceleration or
20 aggravation of a venereal disease or of a disease due to the
21 habitual use of alcohol or controlled substances or narcotic
22 drugs, or a disease that manifests itself in the fear of or
23 dislike for an individual because of the individual's race,
24 color, religion, sex, national origin, age, or handicap is not
25 an injury by accident arising out of the employment. If a
26 preexisting disease or anomaly is accelerated or aggravated by
27 an accident arising out of and in the course of employment,
28 only acceleration of death or acceleration or aggravation of
29 the preexisting condition reasonably attributable to the
30 accident is compensable, with respect to death or permanent
31 impairment. An injury or exposure caused by exposure to a

1 toxic substance is not an injury by accident arising out of
2 the employment unless there is clear and convincing evidence
3 establishing that exposure to the specific substance involved,
4 at the levels to which the employee was exposed, can cause the
5 injury or disease sustained by the employee.

6 (14)

7 (b) "Employee" includes any person who is an officer
8 of a corporation and who performs services for remuneration
9 for such corporation within this state, whether or not such
10 services are continuous.

11 1. Any officer of a corporation may elect to be exempt
12 from this chapter by filing written notice of the election
13 with the division as provided in s. 440.05.

14 2. As to officers of a corporation who are actively
15 engaged in the construction industry, no more than three
16 officers may elect to be exempt from this chapter by filing
17 written notice of the election with the division as provided
18 in s. 440.05, however;

19 a. Such election is valid only with respect to an
20 officer who is the president, vice president, secretary, or
21 treasurer of the corporation.

22 b. Such election is valid only with respect to an
23 officer who owns not less than 10 percent of the stock of the
24 corporation.

25 3. An officer of a corporation who elects to be exempt
26 from this chapter by filing a written notice of the election
27 with the division as provided in s. 440.05 is not an employee.

28
29 Services are presumed to have been rendered to the corporation
30 if the officer is compensated by other than dividends upon
31 shares of stock of the corporation which the officer owns.

1 (37) "Catastrophic injury" means a permanent
2 impairment constituted by:

3 (a) Spinal cord injury involving severe paralysis of
4 an arm, a leg, or the trunk;

5 (b) Amputation of an arm, a hand, a foot, or a leg
6 involving the effective loss of use of that appendage;

7 (c) Severe brain or closed-head injury as evidenced
8 by:

9 1. Severe sensory or motor disturbances;

10 2. Severe communication disturbances;

11 3. Severe complex integrated disturbances of cerebral
12 function;

13 4. Severe episodic neurological disorders; or

14 5. Other severe brain and closed-head injury
15 conditions at least as severe in nature as any condition
16 provided in subparagraphs 1.-4.;

17 (d) Second-degree or third-degree burns of 25 percent
18 or more of the total body surface or third-degree burns of 5
19 percent or more to the face and hands; or

20 (e) Total or industrial blindness; ~~or~~

21 ~~(f) Any other injury that would otherwise qualify~~
22 ~~under this chapter of a nature and severity that would qualify~~
23 ~~an employee to receive disability income benefits under Title~~
24 ~~II or supplemental security income benefits under Title XVI of~~
25 ~~the federal Social Security Act as the Social Security Act~~
26 ~~existed on July 1, 1992, without regard to any time~~
27 ~~limitations provided under that act.~~

28 Section 2. Section 440.06, Florida Statutes, is
29 amended to read:

30 440.06 Failure to secure compensation; effect.--Every
31 employer who fails to secure the payment of compensation, as

1 provided in s. 440.10, by failing to meet the requirements of
2 ~~under this chapter as provided in s. 440.38~~ may not, in any
3 suit brought against him or her by an employee subject to this
4 chapter to recover damages for injury or death, defend such a
5 suit on the grounds that the injury was caused by the
6 negligence of a fellow servant, that the employee assumed the
7 risk of his or her employment, or that the injury was due to
8 the comparative negligence of the employee.

9 Section 3. Subsection (1) of section 440.09, Florida
10 Statutes, is amended, and subsection (9) is added to said
11 section, to read:

12 440.09 Coverage.--

13 (1) The employer shall pay compensation or furnish
14 benefits required by this chapter if the employee suffers an
15 accidental compensable injury or death arising out of work
16 performed in the course and the scope of employment. The
17 injury, its occupational cause, and any resulting
18 manifestations or disability shall be established to a
19 reasonable degree of medical certainty and by objective
20 medical findings. Mental or nervous injuries occurring as a
21 manifestation of an injury compensable under this section
22 shall be demonstrated by clear and convincing evidence. In
23 cases involving occupational disease or repetitive exposure,
24 both causation and sufficient exposure to support causation
25 shall be proven by clear and convincing evidence.

26 (a) This chapter does not require any compensation or
27 benefits for any subsequent injury the employee suffers as a
28 result of an original injury arising out of and in the course
29 of employment unless the original injury is the major
30 contributing cause of the subsequent injury.

1 (b) If an injury arising out of and in the course of
2 employment combines with a preexisting disease or condition to
3 cause or prolong disability or need for treatment, the
4 employer must pay compensation or benefits required by this
5 chapter only to the extent that the injury arising out of and
6 in the course of employment is and remains the major
7 contributing cause of the disability or need for treatment.

8 (c) Death resulting from an operation by a surgeon
9 furnished by the employer for the cure of hernia as required
10 in s. 440.15(6) shall for the purpose of this chapter be
11 considered to be a death resulting from the accident causing
12 the hernia.

13 (d) If an accident happens while the employee is
14 employed elsewhere than in this state, which would entitle the
15 employee or his or her dependents to compensation if it had
16 happened in this state, the employee or his or her dependents
17 are entitled to compensation if the contract of employment was
18 made in this state, or the employment was principally
19 localized in this state. However, if an employee receives
20 compensation or damages under the laws of any other state, the
21 total compensation for the injury may not be greater than is
22 provided in this chapter.

23 (9) Notwithstanding any other provision of this
24 chapter, effective January 1, 2004, all partners or sole
25 proprietors actively engaged in the construction industry
26 shall secure the payment of compensation under this chapter.

27 Section 4. Paragraph (a) of subsection (1) of section
28 440.10, Florida Statutes, is amended to read:

29 440.10 Liability for compensation.--

30 (1)(a) Every employer coming within the provisions of
31 this chapter, including any brought within the chapter by

1 waiver of exclusion or of exemption, shall be liable for, and
2 shall secure, in accordance with s. 440.38,the payment to his
3 or her employees, or any physician, surgeon, or pharmacist
4 providing services under the provisions of s. 440.13, of the
5 compensation payable under ss. 440.13, 440.15, and 440.16. Any
6 contractor or subcontractor who engages in any public or
7 private construction in the state shall secure and maintain
8 compensation for his or her employees under this chapter as
9 provided in s. 440.38.

10 Section 5. Section 440.1025, Florida Statutes, is
11 created to read:

12 440.1025 Consideration of public employer workplace
13 safety program in rate-setting; program requirements;
14 rulemaking.--For a public employer to be eligible for receipt
15 of specific identifiable consideration under s. 627.0915 for a
16 workplace safety program in the setting of rates, the public
17 employer must have a workplace safety program. At a minimum,
18 the program must include a written safety policy and safety
19 rules, and make provision for safety inspections, preventative
20 maintenance, safety training, first-aid, accident
21 investigation, and necessary record keeping. For purposes of
22 this section, "public employer" means "any agency within
23 state, county, or municipal government employing individuals
24 for salary, wages, or other remuneration." The Division may
25 promulgate rules for insurers to utilize in determining public
26 employer compliance with the requirements of this section.

27 Section 6. Subsection (1) of section 440.11, Florida
28 Statutes, is amended to read:

29 440.11 Exclusiveness of liability.--

30 (1) Except if an employer acts with the intent to
31 cause injury or death,the liability of an employer prescribed

1 in s. 440.10 shall be exclusive and in place of all other
2 liability, including any vicarious liability,of such employer
3 to any third-party tortfeasor and to the employee, the legal
4 representative thereof, husband or wife, parents, dependents,
5 next of kin, and anyone otherwise entitled to recover damages
6 from such employer at law or in admiralty on account of such
7 injury or death, except that if an employer fails to secure
8 payment of compensation in accordance with s. 440.38 ~~as~~
9 ~~required by this chapter~~, an injured employee, or the legal
10 representative thereof in case death results from the injury,
11 may elect to claim compensation under this chapter or to
12 maintain an action at law or in admiralty for damages on
13 account of such injury or death. In such action the defendant
14 may not plead as a defense that the injury was caused by
15 negligence of a fellow employee, that the employee assumed the
16 risk of the employment, or that the injury was due to the
17 comparative negligence of the employee. The same immunities
18 from liability enjoyed by an employer shall extend as well to
19 each employee of the employer when such employee is acting in
20 furtherance of the employer's business and the injured
21 employee is entitled to receive benefits under this chapter.
22 Such fellow-employee immunities shall not be applicable to an
23 employee who acts, with respect to a fellow employee, with
24 willful and wanton disregard or unprovoked physical aggression
25 or with gross negligence when such acts result in injury or
26 death or such acts proximately cause such injury or death, ~~nor~~
27 ~~shall such immunities be applicable to employees of the same~~
28 ~~employer when each is operating in the furtherance of the~~
29 ~~employer's business but they are assigned primarily to~~
30 ~~unrelated works within private or public employment.~~ The same
31 immunity provisions enjoyed by an employer shall also apply to

1 any ~~sole proprietor,~~ partner, corporate officer or director,
2 supervisor, or other person who in the course and scope of his
3 or her duties acts in a managerial or policymaking capacity
4 and the conduct which caused the alleged injury arose within
5 the course and scope of said managerial or policymaking duties
6 and was not a violation of a law, whether or not a violation
7 was charged, for which the maximum penalty which may be
8 imposed does not exceed 60 days' imprisonment as set forth in
9 s. 775.082. The immunity from liability provided in this
10 subsection extends to county governments with respect to
11 employees of county constitutional officers whose offices are
12 funded by the board of county commissioners. Intent, as used
13 in this subsection, does not include actions of an employer
14 that are substantially certain to result in injury or death.
15 If an employee recovers damages from an employer either by
16 judgment or settlement under this subsection, the workers'
17 compensation carrier for the employer or the employer, if
18 self-insured, shall have an offset against any workers'
19 compensation benefits to which the employee would be entitled
20 under this chapter. Nothing in this subsection shall create
21 or result in vicarious liability on the part of the employer.

22 Section 7. Paragraph (b) of subsection (2), paragraphs
23 (a), (b), (e), and (f) of subsection (5), paragraph (c) of
24 subsection (9), and paragraph (b) of subsection (14) of
25 section 440.13, Florida Statutes, are amended, and paragraph
26 (f) is added to subsection (2) of said section, to read:

27 440.13 Medical services and supplies; penalty for
28 violations; limitations.--

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

30 (b) The employer shall provide appropriate
31 professional or nonprofessional attendant care performed only

1 at the direction and control of a physician when such care is
2 medically necessary. The value of nonprofessional attendant
3 care provided by a family member must be determined as
4 follows:

5 1. If the family member is not employed, the per-hour
6 value equals the federal minimum hourly wage.

7 2. If the family member is employed and elects to
8 leave that employment to provide attendant or custodial care,
9 the per-hour value of that care equals the per-hour value of
10 the family member's former employment, not to exceed the
11 per-hour value of such care available in the community at
12 large.

13 3. If the family member remains employed while
14 providing attendant or custodial care, the per-hour value of
15 that care equals the per-hour value of the family member's
16 employment, not to exceed the per-hour value of such care
17 available in the community at large.

18 4. A family member or a combination of family members
19 providing nonprofessional attendant care under this paragraph
20 may not be compensated for more than a total of 12 hours per
21 day.

22 (f) Upon the written request of the employee, the
23 carrier shall give the employee the opportunity for one change
24 of physician during the course of treatment for any one
25 accident. The employee shall be entitled to select another
26 physician from among not fewer than three carrier-authorized
27 physicians who are not professionally affiliated.

28 (5) INDEPENDENT MEDICAL EXAMINATIONS.--

29 (a) In any dispute concerning overutilization, medical
30 benefits, compensability, or disability under this chapter,
31 the carrier or the employee may select an independent medical

1 examiner. The examiner may be a health care provider treating
2 or providing other care to the employee. An independent
3 medical examiner may not render an opinion outside his or her
4 area of expertise, as demonstrated by licensure and applicable
5 practice parameters. Upon the written request of the employee,
6 the carrier shall pay the cost of one independent medical
7 examination per accident. The cost of any additional
8 independent medical examination shall be borne by the party
9 requesting the additional independent medical examination.
10 Only the costs of independent medical examinations expressly
11 relied upon by the judge of compensation claims to award
12 benefits in the final compensation order shall be taxable
13 costs under s. 440.34(3).

14 (b) ~~Each party is bound by his or her selection of an~~
15 ~~independent medical examiner and is entitled to an alternate~~
16 ~~examiner only if:~~

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

20 2. ~~The examiner ceases to practice in the specialty~~
21 ~~relevant to the employee's condition;~~

22 3. ~~The examiner is unavailable due to injury, death,~~
23 ~~or relocation outside a reasonably accessible geographic area;~~
24 or

25 4. ~~The parties agree to an alternate examiner.~~

26
27 Any party may request, or a judge of compensation claims may
28 require, designation of a division medical advisor as an
29 independent medical examiner. The opinion of the advisors
30 acting as examiners shall not be afforded the presumption set
31 forth in paragraph (9)(c).

1 (e) No medical opinion other than the opinion of a
 2 medical advisor appointed by the judge of compensation claims
 3 or division, an independent medical examiner, or an authorized
 4 treating provider is admissible in proceedings before the
 5 judges of compensation claims. The employee and the carrier
 6 may each submit into evidence, and the judge of compensation
 7 claims shall admit, the medical opinion of no more than one
 8 independent medical examiner per specialty. In cases involving
 9 occupational disease or repetitive trauma, no medical opinions
 10 are admissible unless based on reliable scientific principles
 11 sufficiently established to have gained general acceptance in
 12 the pertinent area of specialty.

13 (f) Attorney's fees incurred by an injured employee in
 14 connection with ~~delay of or opposition to~~ an independent
 15 medical examination, including, but not limited to, motions
 16 for protective orders, are not recoverable under this chapter.

17 (9) EXPERT MEDICAL ADVISORS.--

18 (c) If there is disagreement in the opinions of the
 19 health care providers, if two health care providers disagree
 20 on medical evidence supporting the employee's complaints or
 21 the need for additional medical treatment, or if two health
 22 care providers disagree that the employee is able to return to
 23 work, the division may, and the judge of compensation claims
 24 may shall, upon his or her own motion or within 15 days after
 25 receipt of a written request by either the injured employee,
 26 the employer, or the carrier, order the injured employee to be
 27 evaluated by an expert medical advisor. The opinion of the
 28 expert medical advisor is presumed to be correct unless there
 29 is clear and convincing evidence to the contrary as determined
 30 by the judge of compensation claims. The expert medical
 31 advisor appointed to conduct the evaluation shall have free

1 and complete access to the medical records of the employee. An
2 employee who fails to report to and cooperate with such
3 evaluation forfeits entitlement to compensation during the
4 period of failure to report or cooperate.

5 (14) PAYMENT OF MEDICAL FEES.--

6 (b) Fees charged for remedial treatment, care, and
7 attendance may not exceed the applicable fee schedules adopted
8 under this chapter, except as provided pursuant to a contract
9 entered into between an employer or carrier and a certified
10 health care provider or health care facility for the payment
11 of medical services for covered expenses.

12 Section 8. Paragraph (d) of subsection (1), subsection
13 (2), and paragraphs (c) and (d) of subsection (15) of section
14 440.134, Florida Statutes, are amended to read:

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

17 (1) As used in this section, the term:

18 (d) "Grievance" means a written complaint filed by an
19 injured worker expressing dissatisfaction with the insurer's
20 workers' compensation managed care arrangement's refusal to
21 provide medical care provided by an insurer's workers'
22 ~~compensation managed care arrangement health care providers,~~
23 ~~expressed in writing by an injured worker.~~

24 (2)(a)(b) ~~Effective January 1, 1997,~~The employer may
25 ~~shall~~, subject to the terms and limitations specified
26 elsewhere in this section and chapter, furnish to the employee
27 solely through managed care arrangements such medically
28 necessary remedial treatment, care, and attendance for such
29 period as the nature of the injury or the process of recovery
30 requires.

31

1 **(b)**~~(a)~~ The agency shall authorize an insurer to offer
2 or utilize a workers' compensation managed care arrangement
3 after the insurer files a completed application along with the
4 payment of a \$1,000 application fee, and upon the agency's
5 being satisfied that the applicant has the ability to provide
6 quality of care consistent with the prevailing professional
7 standards of care and the insurer and its workers'
8 compensation managed care arrangement otherwise meets the
9 requirements of this section. No insurer may offer or utilize
10 a managed care arrangement without such authorization. The
11 authorization, unless sooner suspended or revoked, shall
12 automatically expire 2 years after the date of issuance unless
13 renewed by the insurer. The authorization shall be renewed
14 upon application for renewal and payment of a renewal fee of
15 \$1,000, provided that the insurer is in compliance with the
16 requirements of this section and any rules adopted hereunder.
17 An application for renewal of the authorization shall be made
18 90 days prior to expiration of the authorization, on forms
19 provided by the agency. The renewal application shall not
20 require the resubmission of any documents previously filed
21 with the agency if such documents have remained valid and
22 unchanged since their original filing.

23 (15)(c) At the time the workers' compensation managed
24 care arrangement is implemented, the insurer must provide
25 detailed information to workers and health care providers
26 describing how a grievance may be registered with the insurer.
27 Within 15 days after the date the request for medical care is
28 received by the insurer or by the insurer's workers'
29 compensation managed care arrangement, whichever date is
30 earlier, the insurer shall grant or deny the request. If the
31 insurer denies the request, the insurer shall notify the

1 injured worker in writing of his or her right to file a
2 grievance.

3 (d) Grievances must be considered in a timely manner
4 and must be transmitted to appropriate decisionmakers who have
5 the authority to fully investigate the issue and take
6 corrective action. If the insurer or the insurer's workers'
7 compensation managed care arrangement fails to notify the
8 injured worker of the outcome of the grievance in writing
9 within 15 days after the date of receiving the grievance, the
10 grievance shall be presumed to be resolved against the injured
11 worker and the grievance procedures shall be presumed to be
12 exhausted for purposes of s. 440.192(3).

13 Section 9. Paragraph (a) of subsection (1) of section
14 440.14, Florida Statutes, is amended to read:

15 440.14 Determination of pay.--

16 (1) Except as otherwise provided in this chapter, the
17 average weekly wages of the injured employee at the time of
18 the injury shall be taken as the basis upon which to compute
19 compensation and shall be determined, subject to the
20 limitations of s. 440.12(2), as follows:

21 (a) If the injured employee has worked in the
22 employment in which she or he was working at the time of the
23 injury, whether for the same or another employer, during
24 substantially the whole of 13 weeks immediately preceding the
25 injury, her or his average weekly wage shall be one-thirteenth
26 of the total amount of wages earned in such employment during
27 the 13 weeks. As used in this paragraph, the term
28 "substantially the whole of 13 weeks" means an actual ~~shall be~~
29 ~~deemed to mean and refer to a constructive~~ period of 13 weeks
30 as a whole, which shall be defined as the 13 complete weeks
31 before the date of the accident, excluding the week the injury

1 ~~occurs a consecutive period of 91 days, and~~ The term "during
2 substantially the whole of 13 weeks" shall be deemed to mean
3 during not less than 90 percent of the total customary
4 full-time hours of employment within such period considered as
5 a whole.

6 Section 10. Paragraphs (b) and (f) of subsection (1)
7 and paragraph (a) of subsection (3) of section 440.15, Florida
8 Statutes, are amended to read:

9 440.15 Compensation for disability.--Compensation for
10 disability shall be paid to the employee, subject to the
11 limits provided in s. 440.12(2), as follows:

12 (1) PERMANENT TOTAL DISABILITY.--

13 (b) Any compensable injury eligible for permanent
14 total benefits must be of a nature and severity that prevents
15 the employee from being able to perform his or her previous
16 work or any work available in substantial numbers within the
17 national economy. If the employee is engaged in or is capable
18 of being engaged in any gainful employment, he or she is not
19 entitled to permanent total disability. The burden is on the
20 employee to establish that he or she is unable to perform even
21 part-time sedentary work if such work is available within a
22 50-mile radius of the employee's residence or such greater
23 distance as the judge determines to be reasonable under the
24 circumstances. In addition,~~Only~~ a catastrophic injury as
25 defined in s. 440.02 shall, in the absence of conclusive proof
26 of a substantial earning capacity, constitute permanent total
27 disability. ~~Only claimants with catastrophic injuries are~~
28 ~~eligible for permanent total benefits.~~ In no other case may
29 permanent total disability benefits be awarded.

30 (f)1. If permanent total disability results from
31 injuries that occurred subsequent to June 30, 1955, and for

1 which the liability of the employer for compensation has not
2 been discharged under s. 440.20(11), the injured employee
3 shall receive additional weekly compensation benefits equal to
4 5 percent of her or his weekly compensation rate, as
5 established pursuant to the law in effect on the date of her
6 or his injury, multiplied by the number of calendar years
7 since the date of injury. The weekly compensation payable and
8 the additional benefits payable under this paragraph, when
9 combined, may not exceed the maximum weekly compensation rate
10 in effect at the time of payment as determined pursuant to s.
11 440.12(2). Entitlement to these supplemental payments shall
12 cease at age 62 if the employee is eligible for social
13 security benefits under 42 U.S.C. s. ~~ss~~-402 or s. ~~and~~ 423,
14 whether or not the employee has applied for such benefits.
15 These supplemental benefits shall be paid by the division out
16 of the Workers' Compensation Administration Trust Fund when
17 the injury occurred subsequent to June 30, 1955, and before
18 July 1, 1984. These supplemental benefits shall be paid by the
19 employer when the injury occurred on or after July 1, 1984.
20 Supplemental benefits are not payable for any period prior to
21 October 1, 1974.

22 2.a. The division shall provide by rule for the
23 periodic reporting to the division of all earnings of any
24 nature and social security income by the injured employee
25 entitled to or claiming additional compensation under
26 subparagraph 1. Neither the division nor the employer or
27 carrier shall make any payment of those additional benefits
28 provided by subparagraph 1. for any period during which the
29 employee willfully fails or refuses to report upon request by
30 the division in the manner prescribed by such rules.

31

1 b. The division shall provide by rule for the periodic
2 reporting to the employer or carrier of all earnings of any
3 nature and social security income by the injured employee
4 entitled to or claiming benefits for permanent total
5 disability. The employer or carrier is not required to make
6 any payment of benefits for permanent total disability for any
7 period during which the employee willfully fails or refuses to
8 report upon request by the employer or carrier in the manner
9 prescribed by such rules or if any employee who is receiving
10 permanent total disability benefits refuses to apply for or
11 cooperate with the employer or carrier in applying for social
12 security benefits.

13 3. When an injured employee receives a full or partial
14 lump-sum advance of the employee's permanent total disability
15 compensation benefits, the employee's benefits under this
16 paragraph shall be computed on the employee's weekly
17 compensation rate as reduced by the lump-sum advance.

18 (3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.--

19 (a) Impairment benefits.--

20 1. Once the employee has reached the date of maximum
21 medical improvement, impairment benefits are due and payable
22 within 20 days after the carrier has knowledge of the
23 impairment.

24 2. The three-member panel, in cooperation with the
25 division, shall establish and use a uniform permanent
26 impairment rating schedule. This schedule must be based on
27 medically or scientifically demonstrable findings as well as
28 the systems and criteria set forth in the American Medical
29 Association's Guides to the Evaluation of Permanent
30 Impairment; the Snellen Charts, published by American Medical
31 Association Committee for Eye Injuries; and the Minnesota

1 Department of Labor and Industry Disability Schedules. The
2 schedule should be based upon objective findings. The schedule
3 shall be more comprehensive than the AMA Guides to the
4 Evaluation of Permanent Impairment and shall expand the areas
5 already addressed and address additional areas not currently
6 contained in the guides. On August 1, 1979, and pending the
7 adoption, by rule, of a permanent schedule, Guides to the
8 Evaluation of Permanent Impairment, copyright 1977, 1971,
9 1988, by the American Medical Association, shall be the
10 temporary schedule and shall be used for the purposes hereof.
11 For injuries after July 1, 1990, pending the adoption by
12 division rule of a uniform disability rating schedule, the
13 Minnesota Department of Labor and Industry Disability Schedule
14 shall be used unless that schedule does not address an injury.
15 In such case, the Guides to the Evaluation of Permanent
16 Impairment by the American Medical Association shall be used.
17 Determination of permanent impairment under this schedule must
18 be made by a physician licensed under chapter 458, a doctor of
19 osteopathic medicine licensed under chapters 458 and 459, a
20 chiropractic physician licensed under chapter 460, a podiatric
21 physician licensed under chapter 461, an optometrist licensed
22 under chapter 463, or a dentist licensed under chapter 466, as
23 appropriate considering the nature of the injury. No other
24 persons are authorized to render opinions regarding the
25 existence of or the extent of permanent impairment.

26 3. All impairment income benefits shall be based on an
27 impairment rating using the impairment schedule referred to in
28 subparagraph 2. Impairment income benefits are paid biweekly
29 ~~weekly at a the rate equal to of 50 percent of the employee's~~
30 compensation rate ~~average weekly temporary total disability~~
31 ~~benefit~~ not to exceed the maximum weekly benefit under s.

1 440.12. An employee's entitlement to impairment income
2 benefits begins the day after the employee reaches maximum
3 medical improvement or the expiration of temporary benefits,
4 whichever occurs earlier, and continues until the earlier of:
5 a. The expiration of a period computed at the rate of
6 3 weeks for each percentage point of impairment; or
7 b. The death of the employee.
8 4. After the employee has been certified by a doctor
9 as having reached maximum medical improvement or 6 weeks
10 before the expiration of temporary benefits, whichever occurs
11 earlier, the certifying doctor shall evaluate the condition of
12 the employee and assign an impairment rating, using the
13 impairment schedule referred to in subparagraph 2.
14 Compensation is not payable for the mental, psychological, or
15 emotional injury arising out of depression from being out of
16 work or from preexisting mental, psychological, or emotional
17 conditions. If the certification and evaluation are performed
18 by a doctor other than the employee's treating doctor, the
19 certification and evaluation must be submitted to the treating
20 doctor, and the treating doctor must indicate agreement or
21 disagreement with the certification and evaluation. The
22 certifying doctor shall issue a written report to the
23 division, the employee, and the carrier certifying that
24 maximum medical improvement has been reached, stating the
25 impairment rating, and providing any other information
26 required by the division. If the employee has not been
27 certified as having reached maximum medical improvement before
28 the expiration of 102 weeks after the date temporary total
29 disability benefits begin to accrue, the carrier shall notify
30 the treating doctor of the requirements of this section.
31

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

3 6. The division may by rule specify forms and
4 procedures governing the method of payment of wage loss and
5 impairment benefits for dates of accidents before January 1,
6 1994, and for dates of accidents on or after January 1, 1994.

7 Section 11. Paragraph (e) of subsection (1) and
8 subsection (2) of section 440.151, Florida Statutes, are
9 amended to read:

10 440.151 Occupational diseases.--

11 (1)

12 (e) No compensation shall be payable for disability or
13 death resulting from tuberculosis arising out of and in the
14 course of employment by the Department of Health at a state
15 tuberculosis hospital, or aggravated by such employment, when
16 the employee had suffered from said disease at any time prior
17 to the commencement of such employment. Both causation and
18 sufficient exposure to support causation shall be proven by
19 clear and convincing evidence.

20 (2) Whenever used in this section the term
21 "occupational disease" shall be construed to mean only a
22 disease which is due to causes and conditions which are
23 characteristic of and peculiar to a particular trade,
24 occupation, process, or employment, and to exclude all
25 ordinary diseases of life to which the general public is
26 exposed, unless the incidence of the disease is substantially
27 higher in the particular trade, occupation, process, or
28 employment than for the general public. "Occupational
29 disease" does not mean a disease for which there are no
30 epidemiological studies showing that exposure to the specific
31 substance involved, at the levels to which the employee was

1 exposed, can cause the precise disease sustained by the
2 employee.

3 Section 12. Subsection (2) of section 440.185, Florida
4 Statutes, is amended to read:

5 440.185 Notice of injury or death; reports; penalties
6 for violations.--

7 (2) Within 7 days after actual knowledge of injury or
8 death, the employer shall report such injury or death to its
9 carrier, in a format prescribed by the division, and shall
10 provide a copy of such report to the employee or the
11 employee's estate. The report of injury shall contain the
12 following information:

13 (a) The name, address, and business of the employer;

14 (b) The name, social security number, street, mailing
15 address, telephone number, and occupation of the employee;

16 (c) The cause and nature of the injury or death;

17 (d) The year, month, day, and hour when, and the
18 particular locality where, the injury or death occurred; ~~and~~

19 (e) A record of the employee's earnings for the 13
20 weeks prior to the date of injury; and

21 (f)~~(e)~~ Such other information as the division may
22 require.

23
24 The carrier shall, within 14 days after the employer's receipt
25 of the form reporting the injury, file the information
26 required by this subsection with the division in Tallahassee.
27 However, the division may by rule provide for a different
28 reporting system for those types of injuries which it
29 determines should be reported in a different manner and for
30 those cases which involve minor injuries requiring
31 professional medical attention in which the employee does not

1 lose more than 7 days of work as a result of the injury and is
2 able to return to the job immediately after treatment and
3 resume regular work.

4 Section 13. Section 440.191, Florida Statutes, is
5 amended to read:

6 440.191 Employee Assistance and Ombudsman Office.--

7 (1)(a) In order to effect the self-executing features
8 of the Workers' Compensation Law, this chapter shall be
9 construed to permit injured employees and employers or the
10 employer's carrier to resolve disagreements without undue
11 expense, costly litigation, or delay in the provisions of
12 benefits. It is the duty of all who participate in the
13 workers' compensation system, including, but not limited to,
14 carriers, service providers, health care providers, managed
15 care arrangements, attorneys, employers, and employees, to
16 attempt to resolve disagreements in good faith and to
17 cooperate with the division's efforts to resolve disagreements
18 between the parties. The division may by rule prescribe
19 definitions ~~that are~~ necessary for the effective
20 administration of this section.

21 (b) An Employee Assistance and Ombudsman Office is
22 created within the Division of Workers' Compensation to inform
23 and assist injured workers, employers, carriers, ~~and~~ health
24 care providers, and managed care arrangements in fulfilling
25 their responsibilities under this chapter. The division may by
26 rule specify forms and procedures for administering ~~requests~~
27 ~~for assistance provided by~~ this section.

28 (c) The Employee Assistance and Ombudsman Office,
29 ~~Division of Workers' Compensation~~, shall be a resource
30 available to all employees who participate in the workers'
31 compensation system and shall take all steps necessary to

1 educate and disseminate information to employees and
2 employers. Upon receiving a notice of injury or death, the
3 Employee Assistance and Ombudsman Office is authorized to
4 initiate contact with the injured employee or employee's
5 representative to discuss rights and responsibilities of the
6 employee under this chapter and the services available through
7 the Employee Assistance and Ombudsman Office.

8 ~~(2)(a) An employee may not file a petition requesting~~
9 ~~any benefit under this chapter unless the employee has~~
10 ~~exhausted the procedures for informal dispute resolution under~~
11 ~~this section.~~

12 (a)(b) If at any time the employer or its carrier
13 fails to provide benefits to which the employee believes she
14 or he is entitled, the employee shall contact the office to
15 request assistance in resolving the dispute. The office may
16 review petitions for benefits filed under s. 440.192 shall
17 ~~investigate the dispute~~ and may shall attempt to facilitate an
18 agreement between the employee and the employer or carrier.
19 The employee, the employer, and the carrier shall cooperate
20 with the office and shall timely provide the office with any
21 documents or other information that it may require in
22 connection with its efforts under this section.

23 (b)(c) The office may compel parties to attend
24 conferences in person or by telephone in an attempt to resolve
25 disputes quickly and in the most efficient manner possible.
26 Settlement agreements resulting from such conferences must be
27 submitted to the Office of the Judges of Compensation Claims
28 for approval.

29 (c)(d) The Employee Assistance and Ombudsman Office
30 may assign an ombudsman to assist the employee in resolving
31 the dispute. ~~If the dispute is not resolved within 30 days~~

1 ~~after the employee contacts the office,~~The ombudsman may
 2 ~~shall~~, at the employee's request, assist the employee in
 3 drafting a petition for benefits and explain the procedures
 4 for filing petitions. ~~The division may by rule determine the~~
 5 ~~method used to calculate the 30-day period.~~The Employee
 6 Assistance and Ombudsman Office may not represent employees
 7 before the judges of compensation claims. An employer or
 8 carrier may not pay any attorneys' fees on behalf of the
 9 employee for services rendered or costs incurred in connection
 10 with this section, unless expressly authorized elsewhere in
 11 this chapter.

12 Section 14. Subsections (1), (2), (5), (7), and (8) of
 13 section 440.192, Florida Statutes, are amended to read:

14 440.192 Procedure for resolving benefit disputes.--

15 (1) Subject to s. 440.191, any employee who has not
 16 received a benefit to which the employee believes she or he is
 17 entitled under this chapter shall serve by certified mail upon
 18 the employer, the employer's carrier, and the Office of the
 19 Judges of Compensation Claims ~~division~~ in Tallahassee a
 20 petition for benefits meeting ~~that meets~~ the requirements of
 21 this section. The Chief Judge ~~division~~ shall refer the
 22 petition to the ~~Office of the~~ judges of compensation claims.

23 (2) Upon receipt of a petition,the Office of the
 24 Judges of Compensation Claims shall review each petition and
 25 shall dismiss each petition or any portion of the petition,
 26 ~~upon its own motion or~~ upon the motion of any party, that does
 27 not on its face specifically identify or itemize the
 28 following:

29 (a) Name, address, telephone number, and social
 30 security number of the employee.

31

- 1 (b) Name, address, and telephone number of the
2 employer.
- 3 (c) A detailed description of the injury and cause of
4 the injury, including the location of the occurrence and the
5 date or dates of accident.
- 6 (d) A detailed description of the employee's job, work
7 responsibilities, and work the employee was performing when
8 the injury occurred.
- 9 (e) The time period for which compensation was not
10 timely provided and the specific classification of the
11 compensation.
- 12 (f) Date of maximum medical improvement, character of
13 disability, and specific statement of all benefits or
14 compensation that the employee is seeking.
- 15 (g) The specific ~~All~~ travel costs to which the
16 employee believes she or he is entitled, including dates of
17 travel and purpose of travel, means of transportation, and
18 mileage, including the date the request for mileage was filed
19 with the carrier and a copy of the request for mileage filed
20 with the carrier.
- 21 (h) Specific listing of all medical charges alleged
22 unpaid, including the name and address of the medical
23 provider, the amounts due, and the specific dates of
24 treatment.
- 25 (i) The type or nature of treatment care or attendance
26 sought and the justification for such treatment. If the
27 employee is under the care of a physician for the injury
28 identified under paragraph (c), a copy of the physician's
29 request, authorization, or recommendation for treatment, care,
30 or attendance must accompany the petition.
- 31

1 (j) Specific explanation of any other disputed issue
2 that a judge of compensation claims will be called to rule
3 upon.

4 (k) Any other information and documentation the Chief
5 Judge may require by rule.

6
7 The dismissal of any petition or portion of the petition under
8 this section is without prejudice and does not require a
9 hearing.

10 (5) All motions to dismiss must state with
11 particularity the basis for the motion. The judge of
12 compensation claims shall enter an order upon such motions
13 without hearing, unless good cause for hearing is shown. When
14 any petition or portion of a petition is dismissed for lack of
15 specificity under this subsection, the claimant must be
16 allowed 20 days after the date of the order of dismissal in
17 which to file an amended petition. Any grounds for dismissal
18 for lack of specificity under this section not asserted within
19 45 ~~30~~ days after receipt of the petition for benefits are
20 thereby waived.

21 (7) Notwithstanding the provisions of s. 440.34, a
22 judge of compensation claims may not award attorney's fees
23 payable by the carrier for services expended or costs incurred
24 prior to the filing of a petition ~~that does not~~ meeting meet
25 the requirements of this section.

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

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

11 Section 15. Subsections (4) and (11) of section
12 440.20, Florida Statutes, are amended to read:

13 440.20 Time for payment of compensation; penalties for
14 late payment.--

15 (4) If the carrier is uncertain of its obligation to
16 provide benefits or compensation, it may initiate payment
17 without prejudice and without admitting liability. The carrier
18 shall immediately and in good faith commence investigation of
19 the employee's entitlement to benefits under this chapter and
20 shall admit or deny compensability within 120 days after the
21 initial provision of compensation or benefits as required by
22 subsection (2) or s. 440.192(8). Upon commencement of payment
23 as required by subsection (2) or s. 440.192(8), the carrier
24 shall provide written notice to the employee that it has
25 elected to pay all or part of the claim pending further
26 investigation, and that it will advise the employee of claim
27 acceptance or denial within 120 days. A carrier that fails to
28 deny compensability within 120 days after the initial
29 provision of benefits or payment of compensation, as required
30 by subsection (2) or s. 440.192(8), waives the right to deny
31 compensability, unless the carrier can establish material

1 facts relevant to the issue of compensability that it could
2 not have discovered through reasonable investigation within
3 the 120-day period. The initial provision of compensation or
4 benefits, for purposes of this subsection, shall mean the
5 first installment of compensation or benefits to be paid by
6 the carrier under subsection (2) or pursuant to a petition of
7 benefits under s. 440.192(8).

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

1 his or her attorney related to a settlement, which provide for
2 an attorney's fee in excess of the amount permitted in s.
3 440.34.Such a compensation order so entered upon joint
4 petition of all interested parties is not subject to
5 modification or review under s. 440.28. If the settlement
6 proposal together with supporting evidence is not approved by
7 the judge of compensation claims, it shall be considered void.
8 Upon approval of a lump-sum settlement under this subsection,
9 the judge of compensation claims shall send a report to the
10 Chief Judge of the amount of the settlement and a statement of
11 the nature of the controversy. The Chief Judge shall keep a
12 record of all such reports filed by each judge of compensation
13 claims and shall submit to the Legislature a summary of all
14 such reports filed under this subsection annually by September
15 15.

16 (b) When a claimant is not represented by counsel,
17 upon joint petition of all interested parties, a lump-sum
18 payment in exchange for the employer's or carrier's release
19 from liability for future medical expenses, as well as future
20 payments of compensation and rehabilitation expenses, and any
21 other benefits provided under this chapter, may be allowed at
22 any time in any case after the injured employee has attained
23 maximum medical improvement. An employer or carrier may not
24 pay any attorney's fees on behalf of the claimant for any
25 settlement, unless expressly authorized elsewhere in this
26 chapter. The judge of compensation claims shall not approve
27 settlement proposals, including any stipulations or agreements
28 between the parties or between a claimant and his or her
29 attorney related to the settlement proposal, which provide for
30 an attorney's fee in excess of the amount permitted in s.
31 440.34.A compensation order so entered upon joint petition of

1 all interested parties shall not be subject to modification or
2 review under s. 440.28. However, a judge of compensation
3 claims is not required to approve any award for lump-sum
4 payment when it is determined by the judge of compensation
5 claims that the payment being made is in excess of the value
6 of benefits the claimant would be entitled to under this
7 chapter. The judge of compensation claims shall make or cause
8 to be made such investigations as she or he considers
9 necessary, in each case in which the parties have stipulated
10 that a proposed final settlement of liability of the employer
11 for compensation shall not be subject to modification or
12 review under s. 440.28, to determine whether such final
13 disposition will definitely aid the rehabilitation of the
14 injured worker or otherwise is clearly for the best interests
15 of the person entitled to compensation and, in her or his
16 discretion, may have an investigation made by the
17 Rehabilitation Section of the Division of Workers'
18 Compensation. The joint petition and the report of any
19 investigation so made will be deemed a part of the proceeding.
20 An employer shall have the right to appear at any hearing
21 pursuant to this subsection which relates to the discharge of
22 such employer's liability and to present testimony at such
23 hearing. The carrier shall provide reasonable notice to the
24 employer of the time and date of any such hearing and inform
25 the employer of her or his rights to appear and testify. ~~When~~
26 ~~the claimant is represented by counsel or when the claimant~~
27 ~~and carrier or employer are represented by counsel, final~~
28 ~~approval of the lump-sum settlement agreement, as provided for~~
29 ~~in a joint petition and stipulation, shall be approved by~~
30 ~~entry of an order within 7 days after the filing of such joint~~
31 ~~petition and stipulation without a hearing, unless the judge~~

1 ~~of compensation claims determines, in her or his discretion,~~
2 ~~that additional testimony is needed before such settlement can~~
3 ~~be approved or disapproved and so notifies the parties.~~The
4 probability of the death of the injured employee or other
5 person entitled to compensation before the expiration of the
6 period during which such person is entitled to compensation
7 shall, in the absence of special circumstances making such
8 course improper, be determined in accordance with the most
9 recent United States Life Tables published by the National
10 Office of Vital Statistics of the United States Department of
11 Health and Human Services. The probability of the happening of
12 any other contingency affecting the amount or duration of the
13 compensation, except the possibility of the remarriage of a
14 surviving spouse, shall be disregarded. As a condition of
15 approving a lump-sum payment to a surviving spouse, the judge
16 of compensation claims, in the judge of compensation claims'
17 discretion, may require security which will ensure that, in
18 the event of the remarriage of such surviving spouse, any
19 unaccrued future payments so paid may be recovered or recouped
20 by the employer or carrier. Such applications shall be
21 considered and determined in accordance with s. 440.25.

22 (c) Notwithstanding s. 440.21(2), when a claimant is
23 represented by counsel, the claimant may waive all rights to
24 all benefits under this chapter by entering into a settlement
25 agreement releasing the employer and the carrier from
26 liability for workers' compensation benefits in exchange for a
27 lump-sum payment to the claimant. The settlement agreement
28 requires approval by the judge of compensation claims only as
29 to the attorney's fees paid to the claimant's attorney by the
30 claimant. The parties need not submit any information or
31 documentation in support of the settlement, except as needed

1 to justify the amount of the attorney's fees. Neither the
 2 employer nor the carrier is responsible for any attorney's
 3 fees relating to the settlement and release of claims under
 4 this section. Payment of the lump-sum settlement amount must
 5 be made within 14 days after the date the judge of
 6 compensation claims mails the order approving the attorney's
 7 fees. Any order entered by a judge of compensation claims
 8 approving the attorney's fees as set out in the settlement
 9 under this subsection is not considered to be an award and is
 10 not subject to modification or review. The judge of
 11 compensation claims shall report these settlements to the
 12 chief judge in accordance with the requirements set forth in
 13 paragraphs (a) and (b). Settlements entered into under this
 14 subsection are valid and apply to all dates of accident.

15 (d) With respect to any lump-sum settlement under this
 16 subsection, a judge of compensation claims must consider
 17 whether the settlement provides for appropriate recovery of
 18 any child support arrearage. Neither the employer nor the
 19 carrier has a duty to investigate or collect information
 20 regarding child support arrearages.

21 (e)(c) This section applies to all claims that the
 22 parties have not previously settled, regardless of the date of
 23 accident.

24 Section 16. Subsections (1), (3), and (4) of section
 25 440.25, Florida Statutes, are amended to read:

26 440.25 Procedures for mediation and hearings.--

27 (1) Within 90 ~~21~~ days after a petition for benefits is
 28 filed under s. 440.192, a mediation conference concerning such
 29 petition shall be held. Within 40 ~~7~~ days after such petition
 30 is filed, the judge of compensation claims shall notify the
 31 interested parties by order that a mediation conference

1 concerning such petition will be held unless the parties have
2 notified the Office of the Judges of Compensation Claims that
3 a mediation has been held. Such order must ~~notice shall~~ give
4 the date by which, ~~time, and location of~~ the mediation
5 conference must be held. Such order ~~notice~~ may be served
6 personally upon the interested parties or may be sent to the
7 interested parties by mail. Continuances may be granted only
8 if the requesting party demonstrates to the judge of
9 compensation claims that the reason for requesting the
10 continuance arises from circumstances beyond the party's
11 control. Any order granting a continuance must set forth the
12 date of the rescheduled mediation conference. A mediation
13 conference may not be used solely for the purpose of mediating
14 attorney's fees.

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

1 the discovery or admissibility of any information ~~that is~~
2 otherwise subject to discovery or ~~that is~~ admissible under
3 applicable law or rule of procedure, except that any conduct
4 or statements made during a mediation conference or in
5 negotiations concerning the conference are inadmissible in any
6 proceeding under this chapter.

7 (b)1. Unless the parties conduct a private mediation
8 under subparagraph 2., mediation shall be conducted by a
9 mediator selected by the Deputy Chief Judge from among
10 mediators ~~The Chief Judge shall select a mediator. The~~
11 ~~mediator shall be~~ employed on a full-time basis by the Office
12 of the Judges of Compensation Claims. A mediator must be a
13 member of The Florida Bar for at least 5 years and must
14 complete a mediation training program approved by the Chief
15 Judge. Adjunct mediators may be employed by the Office of the
16 Judges of Compensation Claims on an as-needed basis and shall
17 be selected from a list prepared by the Chief Judge. An
18 adjunct mediator must be independent of all parties
19 participating in the mediation conference. An adjunct mediator
20 must be a member of The Florida Bar for at least 5 years and
21 must complete a mediation training program approved by the
22 Chief Judge. An adjunct mediator shall have access to the
23 office, equipment, and supplies of the judge of compensation
24 claims in each district. This subparagraph is repealed January
25 1, 2003.

26 2.a. With respect to any mediation occurring on or
27 after January 1, 2003; or

28 b. If the parties agree or if no mediators under
29 subparagraph 1. are available to conduct the required
30 mediation within the period specified in this section,

31

1 the parties shall hold a mediation conference at the carrier's
2 expense within the 90-day period set for mediation. The
3 mediation conference shall be conducted by a mediator
4 certified under s. 44.106. If the parties do not agree upon a
5 mediator within 10 days after the date of the order, the
6 claimant shall notify the judge in writing and the judge shall
7 appoint a mediator under this subparagraph within 7 days.In
8 the event both parties agree, the results of the mediation
9 conference shall be binding and neither party shall have a
10 right to appeal the results. In the event either party refuses
11 to agree to the results of the mediation conference, the
12 results of the mediation conference as well as the testimony,
13 witnesses, and evidence presented at the conference shall not
14 be admissible at any subsequent proceeding on the claim. The
15 mediator shall not be called in to testify or give deposition
16 to resolve any claim for any hearing before the judge of
17 compensation claims. The employer may be represented by an
18 attorney at the mediation conference if the employee is also
19 represented by an attorney at the mediation conference.

20 (c) The parties shall complete the pretrial
21 stipulations before the conclusion of the mediation conference
22 if the claims, except for attorney's fees and costs, have not
23 been settled and if any claims in any filed petition remain
24 unresolved. The judge of compensation claims may sanction a
25 party or both parties for failure to complete the pretrial
26 stipulations before the conclusion of the mediation
27 conference.

28 (4)(a) If the parties fail to agree upon written
29 submission of pretrial stipulations at the mediation
30 conference, on the 10th day following commencement of
31 mediation, the questions in dispute have not been resolved,

1 the judge of compensation claims shall order a pretrial
2 hearing to occur within 14 days after the date of mediation
3 ordered by the judge of compensation claims ~~hold a pretrial~~
4 ~~hearing~~. The judge of compensation claims shall give the
5 interested parties at least 7 days' advance notice of the
6 pretrial hearing by mail. At the pretrial hearing, the judge
7 of compensation claims shall, subject to paragraph (b), set a
8 date for the final hearing that allows the parties at least 30
9 days to conduct discovery unless the parties consent to an
10 earlier hearing date.

11 (b) The final hearing must be held and concluded
12 within 90 ~~45~~ days after the mediation conference is held
13 ~~pretrial hearing~~. Continuances may be granted only if the
14 requesting party demonstrates to the judge of compensation
15 claims that the reason for requesting the continuance arises
16 from circumstances beyond the party's control. Any order
17 granting a continuance must set forth the date and time of the
18 rescheduled hearing. If a judge of compensation claims grants
19 two or more continuances to a requesting party, the judge of
20 compensation claims shall report such continuances to the
21 Deputy Chief Judge.

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

25 (d) The final hearing shall be held within 210 days
26 after receipt of the petition for benefits in the county where
27 the injury occurred, if the injury occurred in this state,
28 unless otherwise agreed to between the parties and authorized
29 by the judge of compensation claims in the county where the
30 injury occurred. If the injury occurred outside ~~without~~ the
31 state and is one for which compensation is payable under this

1 chapter, then the final hearing ~~above referred to~~ may be held
2 in the county of the employer's residence or place of
3 business, or in any other county of the state that ~~which~~ will,
4 in the discretion of the Chief Judge, be the most convenient
5 for a hearing. The final hearing shall be conducted by a judge
6 of compensation claims, who shall, within 30 ~~14~~ days after
7 final hearing or closure of the hearing record, unless
8 otherwise agreed by the parties, enter a final order on the
9 merits of the disputed issues ~~determine the dispute in a~~
10 ~~summary manner~~. The judge of compensation claims may enter an
11 abbreviated final order in cases when compensability is not
12 disputed. Either party may request separate findings of fact
13 and conclusions of law.At the final ~~such~~ hearing, the
14 claimant and employer may each present evidence in respect of
15 the claims presented by the petition for benefits ~~such claim~~
16 and may be represented by any attorney authorized in writing
17 for such purpose. When there is a conflict in the medical
18 evidence submitted at the hearing, the provisions of s. 440.13
19 shall apply. The report or testimony of the expert medical
20 advisor shall be made a part of the record of the proceeding
21 and shall be given the same consideration by the judge of
22 compensation claims as is accorded other medical evidence
23 submitted in the proceeding; and all costs incurred in
24 connection with such examination and testimony may be assessed
25 as costs in the proceeding, subject to the provisions of s.
26 440.13. No judge of compensation claims may make a finding of
27 a degree of permanent impairment that is greater than the
28 greatest permanent impairment rating given the claimant by any
29 examining or treating physician, except upon stipulation of
30 the parties.
31

1 (e) The order making an award or rejecting the claim,
2 referred to in this chapter as a "compensation order," shall
3 set forth the findings of ultimate facts and the mandate; and
4 the order need not include any other reason or justification
5 for such mandate. The compensation order shall be filed in the
6 office of the division at Tallahassee. A copy of such
7 compensation order shall be sent by mail to the parties and
8 attorneys of record at the last known address of each, with
9 the date of mailing noted thereon.

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

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

24 (g)(h) Notwithstanding any other provision of this
25 section, the judge of compensation claims may require the
26 appearance of the parties and counsel before her or him
27 without written notice for an emergency conference where there
28 is a bona fide emergency involving the health, safety, or
29 welfare of an employee. An emergency conference under this
30 section may result in the entry of an order or the rendering
31 of an adjudication by the judge of compensation claims.

1 ~~(h)(i)~~ To expedite dispute resolution and to enhance
2 the self-executing features of the Workers' Compensation Law,
3 the Chief Judge shall make provision by rule or order for the
4 resolution of appropriate motions by judges of compensation
5 claims without oral hearing upon submission of brief written
6 statements in support and opposition, and for expedited
7 discovery and docketing. Unless the judge of compensation
8 claims orders a hearing under paragraph (i), claims related to
9 the determination of pay under s. 440.14 shall be resolved
10 under this paragraph.

11 ~~(i)(j)~~ To further expedite dispute resolution and to
12 enhance the self-executing features of the system, those
13 petitions filed in accordance with s. 440.192 that involve a
14 claim for benefits of \$5,000 or less shall, in the absence of
15 compelling evidence to the contrary, be presumed to be
16 appropriate for expedited resolution under this paragraph; and
17 any other claim filed in accordance with s. 440.192, upon the
18 written agreement of both parties and application by either
19 party, may similarly be resolved under this paragraph. Claims
20 for medical-only benefits of \$5,000 or less, or medical
21 mileage reimbursement shall, in the absence of compelling
22 evidence to the contrary, be resolved through the expedited
23 dispute resolution process under this paragraph. For purposes
24 of expedited resolution pursuant to this paragraph, the Chief
25 Judge shall make provision by rule or order for expedited and
26 limited discovery and expedited docketing in such cases. At
27 least 15 days prior to hearing, the parties shall exchange and
28 file with the judge of compensation claims a pretrial outline
29 of all issues, defenses, and witnesses on a form promulgated
30 by the Chief Judge; provided, in no event shall such hearing
31 be held without 15 days' written notice to all parties. No

1 pretrial hearing shall be held. The judge of compensation
2 claims shall limit all argument and presentation of evidence
3 at the hearing to a maximum of 30 minutes, and such hearings
4 shall not exceed 30 minutes in length. Neither party shall be
5 required to be represented by counsel. The employer or carrier
6 may be represented by an adjuster or other qualified
7 representative. The employer or carrier and any witness may
8 appear at such hearing by telephone. The rules of evidence
9 shall be liberally construed in favor of allowing introduction
10 of evidence.

11 (j) A judge of compensation claims, either upon the
12 motion of a party or the judge's own motion, may dismiss a
13 petition for lack of prosecution if no petitions, responses,
14 motions, orders, requests for hearings, or notices of
15 deposition have been filed for a period of 12 months, unless
16 good cause is shown. Dismissals for lack of prosecution are
17 without prejudice and do not require a hearing.

18 (k) A judge of compensation claims may not award
19 interest on unpaid medical bills, nor may the amount of such
20 bills be used to calculate the amount of interest awarded.

21
22 Regardless of the date benefits were initially requested,
23 attorney's fees do not attach under this subsection until 30
24 days from the date the carrier or employer, if self-insured,
25 receives the petition.

26 Section 17. Subsection (4) of section 440.29, Florida
27 Statutes, is amended to read:

28 440.29 Procedure before the judge of compensation
29 claims.--

30 (4) All medical reports of authorized treating health
31 care providers or independent medical examiners, whose medical

1 opinion is submitted under s. 440.13(5)(e), relating to the
2 claimant and subject accident shall be received into evidence
3 by the judge of compensation claims upon proper motion.
4 However, such records must be served on the opposing party at
5 least 30 days before the final hearing. This section does not
6 limit any right of further discovery, including, but not
7 limited to, depositions.

8 Section 18. Subsections (1) and (3) of section 440.34,
9 Florida Statutes, are amended to read:

10 440.34 Attorney's fees; costs.--

11 (1) A fee, gratuity, or other consideration may not be
12 paid for services rendered for a claimant in connection with
13 any proceedings arising under this chapter, unless approved as
14 reasonable by the judge of compensation claims or court having
15 jurisdiction over such proceedings. Except as provided by this
16 subsection, any attorney's fee approved by a judge of
17 compensation claims for services rendered to a claimant must
18 equal to 20 percent of the first \$5,000 of the amount of the
19 benefits secured, 15 percent of the next \$5,000 of the amount
20 of the benefits secured, 10 percent of the remaining amount of
21 the benefits secured to be provided during the first 10 years
22 after the date the claim is filed, and 5 percent of the
23 benefits secured after 10 years. However, in medical-only
24 petitions, the judge of compensation claims ~~shall consider the~~
25 ~~following factors in each case and~~ may approve an additional
26 increase or decrease the attorney's fee, not to exceed \$1,000
27 per accident based on a reasonable hourly rate, if the judge
28 of compensation claims expressly finds that the attorney's
29 fee, based on benefits secured, fails to fairly compensate the
30 attorney and, ~~in her or his judgment,~~ the circumstances of the
31 particular case warrant such action. The judge of

1 compensation claims shall not approve a compensation order, a
2 joint stipulation for lump-sum settlement, a stipulation or
3 agreement between a claimant and his or her attorney, or any
4 other agreement related to benefits under this chapter that
5 provides for an attorney's fee in excess of the amount
6 permitted by this section.+

7 ~~(a) The time and labor required, the novelty and~~
8 ~~difficulty of the questions involved, and the skill requisite~~
9 ~~to perform the legal service properly.~~

10 ~~(b) The fee customarily charged in the locality for~~
11 ~~similar legal services.~~

12 ~~(c) The amount involved in the controversy and the~~
13 ~~benefits resulting to the claimant.~~

14 ~~(d) The time limitation imposed by the claimant or the~~
15 ~~circumstances.~~

16 ~~(e) The experience, reputation, and ability of the~~
17 ~~lawyer or lawyers performing services.~~

18 ~~(f) The contingency or certainty of a fee.~~

19 (3) If the claimant should prevail in any proceedings
20 before a judge of compensation claims or court, there shall be
21 taxed against the employer the reasonable costs of such
22 proceedings, not to include the attorney's fees of the
23 claimant. A claimant shall be responsible for the payment of
24 her or his own attorney's fees, except that a claimant shall
25 be entitled to recover a reasonable attorney's fee from a
26 carrier or employer:

27 (a) Against whom she or he successfully asserts a
28 petition claim for medical benefits only, if the claimant has
29 not filed or is not entitled to file at such time a claim for
30 disability, permanent impairment, wage-loss, or death
31 benefits, arising out of the same accident; or

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

6 (c) In a proceeding in which a carrier or employer
7 denies that an injury occurred for which compensation benefits
8 are payable, and the claimant prevails on the issue of
9 compensability; or

10 (d) In cases where the claimant successfully prevails
11 in proceedings filed under s. 440.24 or s. 440.28.

12
13 Regardless of the date benefits were initially requested,
14 attorney's fees shall not attach under this subsection until
15 30 days from the date the carrier or employer, if
16 self-insured, receives the petition.~~In applying the factors~~
17 ~~set forth in subsection (1) to cases arising under paragraphs~~
18 ~~(a), (b), (c), and (d), the judge of compensation claims must~~
19 ~~only consider only such benefits and the time reasonably spent~~
20 ~~in obtaining them as were secured for the claimant within the~~
21 ~~scope of paragraphs (a), (b), (c), and (d).~~

22 Section 19. Section 440.345, Florida Statutes, is
23 amended to read:

24 440.345 Reporting of attorney's fees.--All fees paid
25 to attorneys for services rendered under this chapter shall be
26 reported to the division as the division requires by rule. The
27 division shall annually summarize the ~~such~~ data in a report to
28 the Governor, the President of the Senate, and the Speaker of
29 the House of Representatives ~~Workers' Compensation Oversight~~
30 ~~Board.~~

31

1 Section 20. Subsection (8) is added to section 440.39,
2 Florida Statutes, to read:

3 440.39 Compensation for injuries when third persons
4 are liable.--

5 (8) This section does not impose on the carrier a duty
6 to preserve evidence pertaining to the industrial accident or
7 to injuries arising from such accident.

8 Section 21. Effective October 1, 2001, subsections (1)
9 and (2) of section 440.4416, Florida Statutes, are amended to
10 read:

11 440.4416 Workers' Compensation Oversight Board.--

12 (1) There is created within the department ~~of Labor~~
13 ~~and Employment Security~~ the Workers' Compensation Oversight
14 Board. The board shall be composed of the following members,
15 each of whom has knowledge of, or experience with, the
16 workers' compensation system:

17 (a) Five ~~Six~~ members selected by the Governor, none of
18 whom shall be a member of the Legislature at the time of
19 appointment, consisting of the following:

20 1. One representative ~~Two representatives~~ of the
21 workers' compensation insurance industry employers.

22 2. One representative ~~Four representatives~~ of workers'
23 compensation health care providers employees, one of whom must
24 be a representative of an employee's union whose members are
25 covered by workers' compensation pursuant to this chapter.

26 3. One representative of workers' compensation
27 claimant's attorneys.

28 4. One representative of workers' compensation defense
29 attorneys.

30 5. One representative who is either an employer or a
31 nonsalaried and nonmanagement employee.

1 (b) ~~Two~~ Three members selected by the President of the
2 Senate, none of whom shall be members of the Legislature at
3 the time of appointment, consisting of:

4 ~~1. A representative of employers who employs at least~~
5 ~~10 employees in Florida for which workers' compensation~~
6 ~~coverage is provided pursuant to this chapter, and who is a~~
7 ~~licensed general contractor actively engaged in the~~
8 ~~construction industry in this state.~~

9 ~~1.2.~~ A representative of employers who employs fewer
10 than 25 ~~10~~ employees in Florida for which workers'
11 compensation coverage is provided pursuant to this chapter.

12 ~~2.3.~~ A representative of employees who is a
13 nonsalaried and nonmanagement employee of an employer
14 employing at least 25 persons.

15 (c) ~~Two~~ Three members selected by the Speaker of the
16 House of Representatives, none of whom shall be members of the
17 Legislature at the time of appointment, consisting of:

18 ~~1. A representative of employers who employs fewer~~
19 ~~than 10 employees in Florida and who is a licensed general~~
20 ~~contractor actively engaged in the construction industry in~~
21 ~~this state for which workers' compensation coverage is~~
22 ~~provided pursuant to this chapter.~~

23 ~~1.2.~~ A representative of employers who employs at
24 least 25 ~~10~~ employees in Florida for which workers'
25 compensation coverage is provided pursuant to this chapter.

26 ~~2.3.~~ A representative of employees who is a
27 nonsalaried and nonmanagement employee of an employer
28 employing fewer than 25 persons.

29 ~~(d) Additionally, the Insurance Commissioner and the~~
30 ~~secretary of the Department of Labor and Employment Security~~
31 ~~shall be nonvoting ex officio members.~~

1 (d)~~(e)~~ The terms of all current board members shall
 2 expire December 31, 2001. New original appointments to the
 3 board shall be made on or before January 1, 2002 ~~1994~~.
 4 Vacancies in the membership of the board shall be filled in
 5 the same manner as the original appointments. ~~Except as to ex~~
 6 ~~officio members of the board,~~ Three appointees of the
 7 Governor, one appointee ~~two appointees~~ of the President of the
 8 Senate, and one appointee ~~two appointees~~ of the Speaker of the
 9 House of Representatives shall serve for terms of 2 years, and
 10 the remaining appointees shall serve for terms of 4 years.
 11 Thereafter, all members shall serve for terms of 4 years;
 12 except that a vacancy shall be filled by appointment for the
 13 remainder of the term. ~~The board shall have an organizational~~
 14 ~~meeting on or before March 1, 1994, the time and place of such~~
 15 ~~meeting to be determined by the Governor.~~

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

23 (f)~~(g)~~ A vacancy shall occur upon failure of a member
 24 to attend four consecutive meetings of the board or 50 percent
 25 of the meetings of the board during a 12-month period, unless
 26 the board by majority votes to excuse the absence of such
 27 member.

28 (2) POWERS AND DUTIES; ORGANIZATION.--

29 (a) The board shall have all the powers necessary and
 30 convenient to carry out and effectuate the purposes of this
 31 section, including, but not limited to, the power to:

- 1 1. Conduct public hearings.
- 2 ~~2. Report to the Legislature by January 1, 1995, as to~~
3 ~~the feasibility of a return-to-work program that includes~~
4 ~~incentives for employers who encourage such a program and~~
5 ~~disincentives for employers who hinder such a program.~~
- 6 ~~2.3.~~ Prescribe qualifications for board employees.
- 7 ~~3.4.~~ Appear on its own behalf before other boards,
8 commissions, or agencies of the state or Federal Government.
- 9 ~~4.5.~~ Make and execute contracts to the extent that
10 such contracts are consistent with duties and powers set forth
11 in this section and elsewhere in the law of this state.
- 12 (b) The board shall adopt bylaws, formulate workers'
13 compensation legislation or amendments, review, advise, and
14 appear before the Legislature in connection with legislation
15 that impacts the workers' compensation system, advise the
16 division on policy, administrative and legislative issues, and
17 appear before other state or federal agencies in connection
18 with matters impacting the workers' compensation system.
- 19 (c) The Governor board shall select a chair from among
20 the employer or employee members of the board. The member
21 designated as chair ~~who~~ shall serve as chair for a term period
22 of 2 years or ~~and~~ until a successor is elected and qualified,
23 unless removed from the board by the Governor. The chair shall
24 be the chief administrative officer of the board and shall
25 have the authority to plan, direct, coordinate, and execute
26 the powers and duties of the board.
- 27 (d) The board shall hold at least one regularly
28 scheduled meeting each quarter and other ~~such~~ meetings during
29 the year as it deems necessary, except that the chair, a
30 quorum of the board, or the division may call meetings. The
31 board shall hold at least two meetings a year outside Leon

1 County.The board shall maintain transcripts of each meeting.
2 Such transcripts shall be available to any interested person
3 in accordance with chapter 119.

4 (e) The board shall approve the bylaws or amendments
5 thereto by unanimous vote. All other board actions or
6 recommendations shall be approved by ~~not less than~~ a majority
7 vote of the members present ~~employee representatives and~~
8 ~~majority vote of employer representatives~~, unless the bylaws
9 otherwise provide.

10 (f) The board shall submit all formal reports and
11 publications made by the board to the division at least 30
12 days prior to the release or publication of the information.
13 The board shall include in all formal reports and publications
14 any response from the division.

15 Section 22. Section 627.0915, Florida Statutes, is
16 amended to read:

17 627.0915 Rate filings; workers' compensation,
18 drug-free workplace, and safe employers.--The Department of
19 Insurance shall approve rating plans for workers' compensation
20 insurance that give specific identifiable consideration in the
21 setting of rates to employers that either implement a
22 drug-free workplace program pursuant to rules adopted by the
23 Division of Workers' Compensation of the Department of Labor
24 and Employment Security or implement a safety program pursuant
25 to provisions of the rating plan approved by the Division of
26 ~~Safety pursuant to rules adopted by the Division of Safety of~~
27 ~~the Department of Labor and Employment Security~~ or implement
28 both a drug-free workplace program and a safety program. ~~The~~
29 ~~Division of Safety may by rule require that the client of a~~
30 ~~help supply services company comply with the essential~~
31 ~~requirements of a workplace safety program as a condition for~~

1 ~~receiving a premium credit. The plans must take effect January~~
2 ~~1, 1994, must be actuarially sound, and must state the savings~~
3 ~~anticipated to result from such drug-testing and safety~~
4 ~~programs.~~

5 Section 23. The amendments to ss. 440.02 and 440.15 in
6 this act shall not be construed to affect any determination of
7 disability under s. 112.18, 112.181, or s. 112.19, Florida
8 Statutes.

9 Section 24. Subsection (3) of section 440.45, Florida
10 Statutes, is repealed.

11 Section 25. If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 invalidity does not affect other provisions or applications of
14 the act which can be given effect without the invalid
15 provision or application, and to this end the provisions of
16 this act are declared severable.

17 Section 26. Except as otherwise provided herein, this
18 act shall take effect January 1, 2002.

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