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Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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The Committee on State Administration offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Section 110.105, Florida Statutes, is renumbered as section 109.105, Florida Statutes.

Section 2. Section 110.107, Florida Statutes, is renumbered as section 109.107, Florida Statutes, and amended to read:

109.107 ~~110.107~~ Definitions.--As used in this chapter, ~~the term:~~

(1) "Department" means the Department of Management Services.

(2)~~(3)~~ "Furlough" means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue

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1 Estimating Conference pursuant to s. 216.136(3).

2 (3) "Office" means the Office of Employee Relations
 3 within the Department of Management Services.

4 (4)(2) "Secretary" means the Secretary of Management
 5 Services.

6 Section 3. Sections 110.108 and 110.109, Florida
 7 Statutes, are repealed.

8 Section 4. Section 110.1082, Florida Statutes, is
 9 renumbered as section 109.1082, Florida Statutes.

10 Section 5. Section 110.1091, Florida Statutes, is
 11 renumbered as section 109.1091, Florida Statutes, and amended
 12 to read:

13 109.1091 ~~110.1091~~ Program for assisting state
 14 employees; confidentiality.--An Each employing state agency
 15 may provide a program to assist any of its state employees
 16 ~~employee~~ who have ~~has~~ a behavioral or medical disorder,
 17 substance abuse problem, or emotional difficulty which affects
 18 their ~~the employee's~~ job performance, through referral for
 19 counseling, therapy, or other professional treatment. Each
 20 employing state agency may designate community diagnostic and
 21 referral resources as necessary to implement the provisions of
 22 this section. Any communication between a state employee and
 23 personnel or service providers of a state employee assistance
 24 program relative to the employee's participation in the
 25 program shall be a confidential communication. Any routine
 26 monitoring of telephone calls by the state agency does not
 27 violate this provision. All records relative to that
 28 participation shall be confidential and exempt from the
 29 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 30 Constitution. This section is subject to the Open Government
 31 Sunset Review Act of 1995 in accordance with s. 119.15, and

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1 shall stand repealed on October 2, 2003, unless reviewed and
 2 saved from repeal through reenactment by the Legislature.

3 Section 6. Section 110.1095, Florida Statutes, is
 4 repealed.

5 Section 7. Section 110.1099, Florida Statutes, is
 6 renumbered as section 109.1099, Florida Statutes, and amended
 7 to read:

8 109.1099 ~~110.1099~~ Education and training opportunities
 9 for state employees.--

10 (1) Education and training are an integral component
 11 in improving the delivery of services to the public.

12 Recognizing that the application of productivity-enhancing
 13 technology and practice demand continuous educational and
 14 training opportunities, a state employee ~~employees~~ may be
 15 authorized to receive a fundable tuition waiver ~~waivers~~ on a
 16 space-available basis or a voucher ~~vouchers~~ to attend
 17 work-related courses at public universities. Student credit
 18 hours generated by state employee fee waivers shall be
 19 fundable credit hours.

20 (2) The department, in conjunction with the agencies,
 21 shall request that public universities ~~such institutions~~
 22 provide evening and weekend programs for state employees. When
 23 evening and weekend training and educational programs are not
 24 available, an employee ~~employees~~ may be authorized to take
 25 paid time off during his or her ~~their~~ regular working hours
 26 for training and career development, as provided in s.
 27 109.105(1) ~~110.105(1)~~, if such training benefits the employer
 28 as determined by that employee's agency head.

29 (3) An employee ~~Employees~~ who exhibits ~~exhibit~~
 30 superior aptitude and performance may be authorized by that
 31 employee's agency head to take a paid educational leave ~~leaves~~

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1 of absence for up to 1 academic year at a time, for specific
2 approved work-related education and training.

3 ~~(4) That employee~~ Such employees must enter into a
4 contract ~~contracts~~ to return to state employment for a period
5 of time equal to the length of the leave of absence or refund
6 salary and benefits paid during his or her ~~their~~ educational
7 leave ~~leaves~~ of absence.

8 ~~(4)(6)~~ As a precondition to approving an employee's
9 training request, an agency or the judicial branch may require
10 an employee to enter into an agreement that requires the
11 employee to reimburse the agency or judicial branch for the
12 registration fee or similar expense for any training or
13 training series when the cost of the fee or similar expense
14 exceeds \$1,000 if the employee voluntarily terminates
15 employment or is discharged ~~for cause~~ from the agency or
16 judicial branch within a specified period of time not to
17 exceed ~~exceeding~~ 4 years after the conclusion of the training.
18 This subsection does not apply to any training program that an
19 agency or the judicial branch requires an ~~the~~ employee to
20 attend. An agency or the judicial branch may pay the
21 outstanding balance then due and owing on behalf of a state
22 employee under this subsection in connection with recruitment
23 and hiring of such state employee.

24 (5) The Department of Management Services, in
25 consultation with the agencies and, to the extent applicable,
26 Florida's public universities ~~postsecondary educational~~
27 ~~institutions~~, shall adopt rules to implement and administer
28 this section.

29 Section 8. Section 110.112, Florida Statutes, is
30 renumbered as section 109.112, Florida Statutes, and amended
31 to read:

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1 109.112 ~~110.112~~ Affirmative action; equal employment
2 opportunity.--

3 (1) It ~~is shall be~~ the policy of ~~this the~~ state to
4 fully utilize the rich diversity of Florida's human resources
5 and to assist in providing the assurance of equal employment
6 opportunity through education and other programs of
7 affirmative and positive action that will allow the citizens
8 of Florida to benefit from the full utilization of all
9 available human resources ~~women and minorities.~~

10 (2)(a) The head of each executive agency and each
11 state attorney and public defender shall develop and implement
12 an affirmative action plan in accordance with rules adopted by
13 the department and approved by a majority vote of the
14 Administration Commission before their adoption.

15 (b) Each executive agency shall establish annual goals
16 for ensuring full utilization of groups underrepresented in
17 its workforce as compared to the relevant labor market, as
18 defined by the agency. Each state attorney and public defender
19 shall establish annual goals for ensuring full utilization of
20 groups underrepresented in his or her workforce as compared to
21 the relevant labor market, as defined by the state attorney or
22 public defender. Each executive agency and each state attorney
23 and public defender shall design the its affirmative action
24 plan to meet the its established goals.

25 (c) An affirmative action-equal employment opportunity
26 officer shall be appointed by the head of each executive
27 agency and each state attorney and public defender. The
28 affirmative action-equal employment opportunity officer's
29 responsibilities shall must include determining annual goals,
30 monitoring agency compliance, and providing consultation with
31 ~~to~~ managers regarding progress, deficiencies, and appropriate

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1 corrective action.

2 (d) The department shall report information in its
3 annual workforce report relating to the implementation,
4 continuance, updating, and results of each executive agency's
5 affirmative action plan for the previous fiscal year.

6 (e) The department shall provide to all supervisory
7 personnel of the executive agencies training in the principles
8 of equal employment opportunity and affirmative action, the
9 development and implementation of affirmative action plans,
10 and the establishment of annual affirmative action goals. The
11 department may contract for training services, and each
12 participating agency shall reimburse the department for costs
13 incurred through such contract. After the department approves
14 the contents of the training program for the agencies, the
15 department may delegate this training to the executive
16 agencies.

17 (3) Each state attorney and public defender shall+
18 ~~(a) Develop and implement an affirmative action plan.~~
19 ~~(b) Establish annual goals for ensuring full~~
20 ~~utilization of groups underrepresented in its workforce as~~
21 ~~compared to the relevant labor market in this state. The state~~
22 ~~attorneys' and public defenders' affirmative action plans must~~
23 ~~be designed to meet the established goals.~~

24 ~~(c) Appoint an affirmative action-equal employment~~
25 ~~opportunity officer.~~

26 (d) report annually to the Justice Administrative
27 Commission on the implementation, continuance, updating, and
28 results of his or her affirmative action program for the
29 previous fiscal year.

30 (4) The state, its agencies and officers shall ensure
31 freedom from discrimination in employment as provided by the

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1 Florida Civil Rights Act of 1992, by s. 112.044, and by this
2 chapter.

3 (5) Any individual claiming to be aggrieved by an
4 unlawful employment practice may file a complaint with the
5 Florida Commission on Human Relations as provided by s.
6 760.11(1)~~760.10(10)~~.

7 (6) The department shall review and monitor executive
8 agency actions in carrying out the rules adopted by the
9 department pursuant to this section.

10 Section 9. Section 110.1127, Florida Statutes, is
11 renumbered as section 109.1127, Florida Statutes, and
12 subsection (1) of said section is amended to read:

13 109.1127 ~~110.1127~~ Employee security checks.--

14 (1) Each employing agency shall designate those
15 employee ~~such of its positions of state employment~~ which,
16 because of the special trust or responsibility or sensitive
17 location of those ~~such~~ positions, require that persons
18 occupying those ~~such~~ positions be subject to a security
19 background check, including fingerprinting, as a condition of
20 employment.

21 Section 10. Section 110.1128, Florida Statutes, is
22 renumbered as section 109.1128, Florida Statutes.

23 Section 11. Section 110.113, Florida Statutes, is
24 renumbered as section 109.113, Florida Statutes, and,
25 effective January 1, 2002, subsection (2) of said section is
26 amended to read:

27 109.113 ~~110.113~~ Pay periods for state officers and
28 employees; salary payments by direct deposit.--

29 (2) As a condition of employment, a person appointed
30 to a position in state government ~~on or after July 1, 1996,~~ is
31 required to participate in the direct deposit program pursuant

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1 to s. 17.076. ~~This subsection does not apply to persons who~~
2 ~~are in the employment of the state on July 1, 1996, and~~
3 ~~subsequently receive promotion appointments, transfers, or~~
4 ~~other changes in positions within the same personnel system~~
5 ~~after July 1, 1996.~~ An employee may request an exemption from
6 the provisions of this subsection when such employee can
7 demonstrate a hardship ~~or when such employee is in an~~
8 ~~other personal services position.~~

9 Section 12. Sections 110.114, 110.115, 110.1155,
10 110.116, and 110.1165, Florida Statutes, are renumbered as
11 sections 109.114, 109.115, 109.1155, 109.116, and 109.1165,
12 Florida Statutes, respectively.

13 Section 13. Section 110.117, Florida Statutes, is
14 renumbered as section 109.117, Florida Statutes, and
15 subsection (3) of said section is amended to read:

16 109.117 ~~110.117~~ Paid holidays.--

17 (3) Each full-time employee is entitled to one
18 personal holiday each year. Each part-time employee is
19 entitled to a personal holiday each year which shall be
20 calculated proportionately to the personal holiday allowed to
21 a full-time employee. Such personal holiday shall be credited
22 to eligible employees on July 1 of each year to be taken prior
23 to June 30 of the following year. Members of the teaching and
24 research faculty of the State University System and
25 administrative and professional positions exempted under s.
26 109.205(2)(d)~~110.205(2)(d)~~ are not eligible for this benefit.

27 Section 14. Sections 110.118, 110.119, 110.120,
28 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes,
29 are renumbered as sections 109.118, 109.119, 109.120, 109.121,
30 109.122, 109.1221, and 109.1225, Florida Statutes,
31 respectively.

1 Section 15. Section 110.1227, Florida Statutes, is
2 renumbered as section 109.1227, Florida Statutes, and
3 paragraph (c) of subsection (1) of said section is amended to
4 read:

5 109.1227 ~~110.1227~~ Florida Employee Long-Term-Care Plan
6 Act.--

7 (1) The Legislature finds that state expenditures for
8 long-term-care services continue to increase at a rapid rate
9 and that the state faces increasing pressure in its efforts to
10 meet the long-term-care needs of the public.

11 (c) This act in no way affects the Department of
12 Management Services' authority pursuant to s. 109.123 ~~110.123~~.

13 Section 16. Section 110.123, Florida Statutes, is
14 renumbered as section 109.123, Florida Statutes, and paragraph
15 (g) of subsection (3) of said section is amended to read:

16 109.123 ~~110.123~~ State group insurance program.--

17 (3) STATE GROUP INSURANCE PROGRAM.--

18 (g)1. A person eligible to participate in the state
19 group insurance program may be authorized by rules adopted by
20 the department, in lieu of participating in the state group
21 health insurance plan, to exercise an option to elect
22 membership in a health maintenance organization plan which is
23 under contract with the state in accordance with criteria
24 established by this section and by said rules. The offer of
25 optional membership in a health maintenance organization plan
26 permitted by this paragraph may be limited or conditioned by
27 rule as may be necessary to meet the requirements of state and
28 federal laws.

29 2. The department shall contract with health
30 maintenance organizations seeking to participate in the state
31 group insurance program through a request for proposal or

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1 other procurement process, as developed by the Department of
2 Management Services and determined to be appropriate.

3 a. The department shall establish a schedule of
4 minimum benefits for health maintenance organization coverage,
5 and that schedule shall include: physician services; inpatient
6 and outpatient hospital services; emergency medical services,
7 including out-of-area emergency coverage; diagnostic
8 laboratory and diagnostic and therapeutic radiologic services;
9 mental health, alcohol, and chemical dependency treatment
10 services meeting the minimum requirements of state and federal
11 law; skilled nursing facilities and services; prescription
12 drugs; and other benefits as may be required by the
13 department. Additional services may be provided subject to
14 the contract between the department and the HMO.

15 b. The department may establish uniform deductibles,
16 copayments, or coinsurance schedules for all participating HMO
17 plans.

18 c. The department may require detailed information
19 from each health maintenance organization participating in the
20 procurement process, including information pertaining to
21 organizational status, experience in providing prepaid health
22 benefits, accessibility of services, financial stability of
23 the plan, quality of management services, accreditation
24 status, quality of medical services, network access and
25 adequacy, performance measurement, ability to meet the
26 department's reporting requirements, and the actuarial basis
27 of the proposed rates and other data determined by the
28 director to be necessary for the evaluation and selection of
29 health maintenance organization plans and negotiation of
30 appropriate rates for these plans. Upon receipt of proposals
31 by health maintenance organization plans and the evaluation of

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1 those proposals, the department may enter into negotiations
2 with all of the plans or a subset of the plans, as the
3 department determines appropriate. Nothing shall preclude the
4 department from negotiating regional or statewide contracts
5 with health maintenance organization plans when this is
6 cost-effective and when the department determines that the
7 plan offers high value to enrollees.

8 d. The department may limit the number of HMOs that it
9 contracts with in each service area based on the nature of the
10 bids the department receives, the number of state employees in
11 the service area, or any unique geographical characteristics
12 of the service area. The department shall establish by rule
13 service areas throughout the state.

14 e. All persons participating in the state group
15 insurance program who are required to contribute towards a
16 total state group health premium shall be subject to the same
17 dollar contribution regardless of whether the enrollee enrolls
18 in the state group health insurance plan or in an HMO plan.

19 3. The department is authorized to negotiate and to
20 contract with specialty psychiatric hospitals for mental
21 health benefits, on a regional basis, for alcohol, drug abuse,
22 and mental and nervous disorders. The department may
23 establish, subject to the approval of the Legislature pursuant
24 to subsection (5), any such regional plan upon completion of
25 an actuarial study to determine any impact on plan benefits
26 and premiums.

27 4. In addition to contracting pursuant to subparagraph
28 2., the department shall enter into contract with any HMO to
29 participate in the state group insurance program which:

30 a. Serves greater than 5,000 recipients on a prepaid
31 basis under the Medicaid program;

1 b. Does not currently meet the 25 percent
 2 non-Medicare/non-Medicaid enrollment composition requirement
 3 established by the Department of Health excluding participants
 4 enrolled in the state group insurance program;

5 c. Meets the minimum benefit package and copayments
 6 and deductibles contained in sub-subparagraphs 2.a. and b.;

7 d. Is willing to participate in the state group
 8 insurance program at a cost of premiums that is not greater
 9 than 95 percent of the cost of HMO premiums accepted by the
 10 department in each service area; and

11 e. Meets the minimum surplus requirements of s.
 12 641.225.

13
 14 The department is authorized to contract with HMOs that meet
 15 the requirements of sub-subparagraphs a.-d. prior to the open
 16 enrollment period for state employees. The department is not
 17 required to renew the contract with the HMOs as set forth in
 18 this paragraph more than twice. Thereafter, the HMOs shall be
 19 eligible to participate in the state group insurance program
 20 only through the request for proposal process described in
 21 subparagraph 2.

22 5. All enrollees in the state group health insurance
 23 plan or any health maintenance organization plan shall have
 24 the option of changing to any other health plan which is
 25 offered by the state within any open enrollment period
 26 designated by the department. Open enrollment shall be held at
 27 least once each calendar year.

28 6. When a contract between a treating provider and the
 29 state-contracted health maintenance organization is terminated
 30 for any reason other than for cause, each party shall allow
 31 any enrollee for whom treatment was active to continue

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1 coverage and care when medically necessary, through completion
2 of treatment of a condition for which the enrollee was
3 receiving care at the time of the termination, until the
4 enrollee selects another treating provider, or until the next
5 open enrollment period offered, whichever is longer, but no
6 longer than 6 months after termination of the contract. Each
7 party to the terminated contract shall allow an enrollee who
8 has initiated a course of prenatal care, regardless of the
9 trimester in which care was initiated, to continue care and
10 coverage until completion of postpartum care. This does not
11 prevent a provider from refusing to continue to provide care
12 to an enrollee who is abusive, noncompliant, or in arrears in
13 payments for services provided. For care continued under this
14 subparagraph, the program and the provider shall continue to
15 be bound by the terms of the terminated contract. Changes made
16 within 30 days before termination of a contract are effective
17 only if agreed to by both parties.

18 7. Any HMO participating in the state group insurance
19 program shall submit health care utilization and cost data to
20 the department, in such form and in such manner as the
21 department shall require, as a condition of participating in
22 the program. The department shall enter into negotiations
23 with its contracting HMOs to determine the nature and scope of
24 the data submission and the final requirements, format,
25 penalties associated with noncompliance, and timetables for
26 submission. These determinations shall be adopted by rule.

27 8. The department may establish and direct, with
28 respect to collective bargaining issues, a comprehensive
29 package of insurance benefits that may include supplemental
30 health and life coverage, dental care, long-term care, vision
31 care, and other benefits it determines necessary to enable

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1 state employees to select from among benefit options that best
2 suit their individual and family needs.

3 a. Based upon a desired benefit package, the
4 department shall issue a request for proposal for health
5 insurance providers interested in participating in the state
6 group insurance program, and the department shall issue a
7 request for proposal for insurance providers interested in
8 participating in the non-health-related components of the
9 state group insurance program. Upon receipt of all proposals,
10 the department may enter into contract negotiations with
11 insurance providers submitting bids or negotiate a specially
12 designed benefit package. Insurance providers offering or
13 providing supplemental coverage as of May 30, 1991, which
14 qualify for pretax benefit treatment pursuant to s. 125 of the
15 Internal Revenue Code of 1986, with 5,500 or more state
16 employees currently enrolled may be included by the department
17 in the supplemental insurance benefit plan established by the
18 department without participating in a request for proposal,
19 submitting bids, negotiating contracts, or negotiating a
20 specially designed benefit package. These contracts shall
21 provide state employees with the most cost-effective and
22 comprehensive coverage available; however, no state or agency
23 funds shall be contributed toward the cost of any part of the
24 premium of such supplemental benefit plans. With respect to
25 dental coverage, the division shall include in any
26 solicitation or contract for any state group dental program
27 made after July 1, 2001, a comprehensive indemnity dental plan
28 option which offers enrollees a completely unrestricted choice
29 of dentists. If a dental plan is endorsed, or in some manner
30 recognized as the preferred product, such plan shall include a
31 comprehensive indemnity dental plan option which provides

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1 enrollees with a completely unrestricted choice of dentists.

2 b. Pursuant to the applicable provisions of s. 109.161
3 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the
4 department shall enroll in the pretax benefit program those
5 state employees who voluntarily elect coverage in any of the
6 supplemental insurance benefit plans as provided by
7 sub-subparagraph a.

8 c. Nothing herein contained shall be construed to
9 prohibit insurance providers from continuing to provide or
10 offer supplemental benefit coverage to state employees as
11 provided under existing agency plans.

12 Section 17. Section 110.12312, Florida Statutes, is
13 renumbered as section 109.12312, Florida Statutes, and amended
14 to read:

15 109.12312 ~~110.12312~~ Open enrollment period for
16 retirees.--On or after July 1, 1997, the Department of
17 Management Services shall provide for an open enrollment
18 period for retired state employees who want to obtain health
19 insurance coverage under ss. 109.123 ~~110.123~~ and 109.12315
20 ~~110.12315~~. The options offered during the open enrollment
21 period must provide the same health insurance coverage as the
22 coverage provided to active employees under the same premium
23 payment conditions in effect for covered retirees, including
24 eligibility for health insurance subsidy payments under s.
25 112.363. A person who separates from employment subsequent to
26 May 1, 1988, but whose date of retirement occurs on or after
27 August 1, 1995, is eligible as of the first open enrollment
28 period occurring after July 1, 1997, with an effective date of
29 January 1, 1998, as long as the retiree's enrollment remains
30 in effect.

31 Section 18. Section 110.12315, Florida Statutes, is

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1 renumbered as section 109.12315, Florida Statutes.

2 Section 19. Section 110.1232, Florida Statutes, is
3 renumbered as section 109.1232, Florida Statutes, and amended
4 to read:

5 109.1232 ~~110.1232~~ Health insurance coverage for
6 persons retired under state-administered retirement systems
7 before January 1, 1976, and for spouses.--Notwithstanding any
8 provisions of law to the contrary, the Department of
9 Management Services shall provide health insurance coverage
10 under the state group insurance program for persons who
11 retired before January 1, 1976, under any of the
12 state-administered retirement systems and who are not covered
13 by social security and for the spouses and surviving spouses
14 of such retirees who are also not covered by social security.
15 Such health insurance coverage shall provide the same benefits
16 as provided to other retirees who are entitled to participate
17 under s. 109.123 ~~110.123~~. The claims experience of this group
18 shall be commingled with the claims experience of other
19 members covered under s. 109.123 ~~110.123~~.

20 Section 20. Sections 110.1234, 110.1238, and 110.1239,
21 Florida Statutes, are renumbered as sections 109.1234,
22 109.1238, and 109.1239, Florida Statutes, respectively.

23 Section 21. Section 110.124, Florida Statutes, is
24 renumbered as section 109.124, Florida Statutes, and,
25 effective January 1, 2002, subsections (2) and (4) of said
26 section are amended to read:

27 109.124 ~~110.124~~ Termination or transfer of employees
28 aged 65 or older.--

29 (2) Whenever any employee who has attained age 65 is
30 terminated by an agency or department solely because the
31 employee attains age 65, the employee may apply for relief

1 from the action to the circuit court, unless voluntary binding
 2 arbitration is conducted pursuant to s. 109.240 ~~Public~~
 3 ~~Employees Relations Commission pursuant to s. 447.208.~~ The
 4 employee shall continue in employment pending the outcome of
 5 the case application. If the employee continues in employment
 6 following a the decision of the court ~~commission~~, no further
 7 action shall be taken by the agency or department to terminate
 8 the employee for a period of 1 year following the date of the
 9 court's decision of the ~~commission~~ unless approved by the
 10 court ~~commission~~ upon a showing by the agency or department
 11 that the employee's capability has changed to a sufficient
 12 extent that he or she is no longer able to perform any job
 13 within such agency or department. If the employee continues in
 14 employment following a decision of the voluntary binding
 15 arbitration panel, no further action shall be taken by the
 16 agency or department to terminate the employee for a period of
 17 1 year following the date of the panel's decision unless
 18 approved by the office upon a showing by the agency or
 19 department that the employee's capability has changed to a
 20 sufficient extent that he or she is no longer able to perform
 21 any job within such agency or department.

22 (4) If mutually agreed to by the employee and the
 23 agency or department, an employee who has attained age 65 may
 24 be reduced to a part-time position for the purpose of phasing
 25 the employee out of employment into retirement. Such an
 26 arrangement may also be required by the court or the voluntary
 27 binding arbitration panel ~~Public Employees Relations~~
 28 ~~Commission~~ as part of its decision in any appeal arising out
 29 of this section. A reduction to a part-time position may be
 30 accompanied by an appropriate reduction in pay.

31 Section 22. Section 110.1245, Florida Statutes, is

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1 renumbered as section 109.1245, Florida Statutes, and amended
2 to read:

3 (Substantial rewording of section. See
4 s. 110.1245, F.S., for present text.)
5 109.1245 Savings sharing; bonus payments; other
6 awards.--

7 (1)(a) The Department of Management Services shall set
8 policy, develop procedures, and promote a savings sharing
9 program for an individual or group of employees who propose
10 procedures or ideas which are adopted and which result in
11 eliminating or reducing state expenditures, if such proposals
12 are placed in effect and can be implemented under current
13 statutory authority.

14 (b) Each agency head shall recommend employees
15 individually or by group to be awarded an amount of money,
16 which amount shall be directly related to the cost savings
17 realized. Each proposed award and amount of money must be
18 approved by the Legislative Budgeting Commission.

19 (c) Each state agency, unless otherwise provided by
20 law, may participate in the program. The Chief Justice shall
21 have the authority to establish a savings sharing program for
22 employees of the judicial branch within the parameters
23 established in this section. The program shall apply to all
24 employees within the Career Service System, the Selected
25 Exempt Service, and comparable employees within the judicial
26 branch.

27 (d) The department and the judicial branch shall
28 submit annually to the President of the Senate and the Speaker
29 of the House of Representatives information that outlines each
30 agency's level of participation in the savings sharing
31 program. The information shall include, but is not limited to:

- 1 1. The number of proposals made.
- 2 2. The number of awards made to employees or groups
- 3 for adopted proposals.
- 4 3. The actual cost savings realized as a result of
- 5 implementing employee or group proposals.
- 6 4. The number of employees or groups recognized for
- 7 superior accomplishments.
- 8 (2) In June of each year, bonuses shall be paid to
- 9 employees from unused salary and expense dollars. Each agency
- 10 shall develop a plan for awarding lump-sum bonuses, which plan
- 11 shall be submitted to and approved by the Office of Policy and
- 12 Budget in the Executive Office of the Governor no later than
- 13 September 15 of each year. Such plan shall include, at a
- 14 minimum:
- 15 (a) A statement that bonuses shall be awarded from
- 16 unused salary and expense dollars.
- 17 (b) A statement that all bonuses are subject to
- 18 appropriation by the Legislature.
- 19 (c) Eligibility criteria as follows:
- 20 1. The employee must have been employed prior to July
- 21 1 of that fiscal year and have been continuously employed
- 22 through the date of distribution.
- 23 2. The employee must not have been on leave without
- 24 pay consecutively for 6 months or more during the fiscal year.
- 25 3. The employee must have had no disciplinary action
- 26 during the period beginning July 1 through the date the bonus
- 27 checks are distributed. Disciplinary actions include written
- 28 reprimands, suspensions, dismissals, and involuntary or
- 29 voluntary demotions that were associated with a disciplinary
- 30 action.
- 31 4. The employee must have demonstrated a commitment to

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1 agency mission by reducing the burden on those served,
2 continually improving the way business is conducted, producing
3 results in the form of increased outputs, and working to
4 improve processes.

5 5. The employee must have demonstrated initiative in
6 work and exceeded normal job expectations.

7 6. The employee must have modeled the way for others
8 by displaying agency values of fairness, cooperation, respect,
9 commitment, honesty, excellence, and teamwork.

10 (d) An evaluation process of the employee's
11 performance and eligibility to be performed no less than
12 quarterly.

13 (e) Peer input to account for at least 40 percent of
14 the bonus award determination.

15 (f) A division of the agency by work unit for purposes
16 of peer input and bonus distribution.

17 (g) A limitation on bonus distributions equal to 35
18 percent of the agency's total authorized positions. This
19 requirement may be waived by the Office of Policy and Budget
20 in the Executive Office of the Governor upon a showing of
21 exceptional circumstances.

22 (3) Each department head is authorized to incur
23 expenditures to award suitable framed certificates, pins, and
24 other tokens of recognition to retiring state employees whose
25 service with the state has been satisfactory, in appreciation
26 and recognition of such service. Such awards may not cost in
27 excess of \$100 each plus applicable taxes.

28 (4) Each department head is authorized to incur
29 expenditures to award suitable framed certificates, pins, or
30 other tokens of recognition to state employees who have
31 achieved increments of 5 years of satisfactory service in the

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1 agency or to the state, in appreciation and recognition of
2 such service. Such awards may not cost in excess of \$50 each
3 plus applicable taxes.

4 (5) Each department head is authorized to incur
5 expenditures not to exceed \$100 each plus applicable taxes for
6 suitable framed certificates, plaques, or other tokens of
7 recognition to any appointed member of a state board or
8 commission whose service to the state has been satisfactory,
9 in appreciation and recognition of such service upon the
10 expiration of such board or commission member's final term in
11 such position.

12 Section 23. Section 110.1246, Florida Statutes, is
13 repealed.

14 Section 24. Sections 110.125, 110.126, and 110.127,
15 Florida Statutes, are renumbered as sections 109.125, 109.126,
16 and 109.127, Florida Statutes, respectively.

17 Section 25. Section 110.129, Florida Statutes, is
18 renumbered as section 109.129, Florida Statutes, and amended
19 to read:

20 109.129 ~~110.129~~ Services to political subdivisions.--

21 (1) Upon request, the department may enter into a
22 formal agreement ~~agreements~~ with any municipality or political
23 subdivision of the state to furnish technical assistance to
24 improve the system or methods of personnel administration of
25 that ~~such~~ municipality or political subdivision. The
26 department shall provide such assistance within the
27 limitations of available staff, funds, and other resources.
28 All municipalities and political subdivisions of the state are
29 authorized to enter into such agreements.

30 (2) Technical assistance includes ~~may include~~, but is
31 ~~shall not be~~ limited to, providing technical advice, written

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1 reports, ~~or and~~ other information or materials, which ~~and~~ may
 2 cover such subjects as management and personnel systems,
 3 central administrative and support services, employee
 4 training, and employee productivity.

5 (3) Technical assistance rendered to municipalities or
 6 political subdivisions pursuant to this section may be on a
 7 nonreimbursable basis or may be partly or wholly reimbursable
 8 based upon the extent, nature, and duration of the requested
 9 assistance; the extent of resources required; and the degree
 10 to which the assistance would be of use to other
 11 municipalities or political subdivisions of the state.

12 Section 26. Section 110.131, Florida Statutes, is
 13 renumbered as section 109.131, Florida Statutes, and,
 14 effective July 1, 2001, subsections (2) and (3) and paragraph
 15 (c) of subsection (6) of said section are amended to read:

16 109.131 ~~110.131~~ Other-personal-services temporary
 17 employment.--

18 (2) An agency may employ any qualified individual in
 19 other-personal-services temporary employment for 100 hours in
 20 any calendar month ~~1,040 hours within any 12-month~~ period. An
 21 extension beyond a total of 100 hours in any calendar month
 22 period ~~1,040 hours~~ within an agency for any individual
 23 requires the approval of the Governor's Office of Policy and
 24 Budget for good cause ~~agency head or a designee. Approval of~~
 25 ~~extensions shall be made in accordance with criteria~~
 26 ~~established by the department. Each agency shall maintain~~
 27 ~~employee information as specified by the department regarding~~
 28 ~~each extension of other personal services temporary~~
 29 ~~employment.~~ The time limitation established by this
 30 subsection does not apply to board members, ~~consultants,~~
 31 ~~seasonal employees,~~ institutional clients employed as part of

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1 their rehabilitation, or bona fide, degree-seeking students in
2 accredited secondary or postsecondary educational programs.

3 (3) The department shall adopt rules providing that
4 other-personal-services temporary employment in an
5 employer-employee relationship shall be used for short-term
6 tasks. Such rules shall specify the employment categories,
7 terms, conditions, rate of pay, and frequency of
8 other-personal-services temporary employment and the duration
9 for which such employment may last, ~~and specify criteria for~~
10 ~~approving extensions beyond the time limitation provided in~~
11 ~~subsection (2)~~ and prescribe recordkeeping and reporting
12 requirements for other-personal-services employment.

13 (6)

14 (c) Notwithstanding the provisions of this section,
15 the agency head or his or her designee may extend the
16 other-personal-services employment of a health care
17 practitioner licensed pursuant to chapter 458, chapter 459,
18 chapter 460, chapter 461, chapter 463, part I of chapter 464,
19 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
20 490 beyond 2,080 hours per year and may employ such
21 practitioner on an hourly or other basis.

22 Section 27. Section 110.151, Florida Statutes, is
23 renumbered as section 109.151, Florida Statutes.

24 Section 28. Section 110.152, Florida Statutes, is
25 renumbered as section 109.152, Florida Statutes, and
26 subsection (4) of said section is amended to read:

27 109.152 ~~110.152~~ Adoption benefits for state or water
28 management district employees; parental leave.--

29 (4) Any employee of the state or of a water management
30 district who has a child placed in the custody of the employee
31 for adoption, and who continues to reside in the same

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1 household as the child placed for adoption, shall be granted
 2 parental leave for a period not to exceed 6 months as provided
 3 in s. 109.221 ~~110.221~~.

4 Section 29. Section 110.15201, Florida Statutes, is
 5 renumbered as section 109.15201, Florida Statutes.

6 Section 30. Section 110.1521, Florida Statutes, is
 7 renumbered as section 109.1521, Florida Statutes, and amended
 8 to read:

9 109.1521 ~~110.1521~~ Short title.--Sections
 10 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the
 11 "Family Support Personnel Policies Act."

12 Section 31. Section 110.1522, Florida Statutes, is
 13 renumbered as section 109.1522, Florida Statutes, and amended
 14 to read:

15 109.1522 ~~110.1522~~ Model rule establishing family
 16 support personnel policies.--The Department of Management
 17 Services shall develop a model rule establishing family
 18 support personnel policies for all executive branch agencies,
 19 excluding the State University System. "Family support
 20 personnel policies," for purposes of ss. 109.1521-109.1523
 21 ~~110.1521-110.1523~~, means personnel policies affecting
 22 employees' ability to both work and devote care and attention
 23 to their families and includes policies on flexible hour work
 24 schedules, compressed time, job sharing, part-time employment,
 25 maternity or paternity leave for employees with a newborn or
 26 newly adopted child, and paid and unpaid family or
 27 administrative leave for family responsibilities.

28 Section 32. Section 110.1523, Florida Statutes, is
 29 renumbered as section 109.1523, Florida Statutes, and amended
 30 to read:

31 109.1523 ~~110.1523~~ Adoption of model rule.--The model

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1 rule shall be effective 20 days after having been filed with
2 the Department of State and shall become part of the personnel
3 rules of all applicable state agencies 150 days after the
4 effective date of the rule to the extent that each agency does
5 not, subsequent to such effective date, adopt a rule that sets
6 forth the intent to specifically amend all or part of such
7 model rule. Any employee or organization representing
8 employees shall be considered a party for purposes of any rule
9 required by ss. 109.1521-109.1523 ~~110.1521-110.1523~~,
10 notwithstanding any provision of chapter 120 to the contrary.

11 Section 33. Section 110.161, Florida Statutes, is
12 renumbered as section 109.161, Florida Statutes, and paragraph
13 (a) of subsection (6) of said section is amended to read:

14 109.161 ~~110.161~~ State employees; pretax benefits
15 program.--

16 (6) The Department of Management Services is
17 authorized to administer the pretax benefits program
18 established for all employees so that employees may receive
19 benefits that are not includable in gross income under the
20 Internal Revenue Code of 1986. The pretax benefits program:

21 (a) Shall allow employee contributions to premiums for
22 the state group insurance program administered under s.
23 109.123 ~~110.123~~ to be paid on a pretax basis unless an
24 employee elects not to participate.

25 Section 34. Section 110.171, Florida Statutes, is
26 renumbered as section 109.171, Florida Statutes, and paragraph
27 (c) of subsection (2) of said section is amended to read:

28 109.171 ~~110.171~~ State employee telecommuting
29 program.--

30 (2) The department shall:

31 (c) Identify state employees who are participating in

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1 a telecommuting program and their job classifications through
2 the state personnel payroll information subsystem created
3 under s. 109.116 ~~110.116~~.

4 Section 35. Section 110.181, Florida Statutes, is
5 renumbered as section 109.181, Florida Statutes.

6 Section 36. Section 110.191, Florida Statutes, is
7 renumbered as section 109.191, Florida Statutes, and amended
8 to read:

9 109.191 ~~110.191~~ State employee leasing.--

10 (1) In situations where the Legislature has expressly
11 authorized the state, an agency, or the judicial branch as
12 defined in s. 109.203 ~~110.203~~ to lease employees, the
13 Executive Office of the Governor for the executive branch or
14 the Chief Justice for the judicial branch may authorize any of
15 the following actions related to such state employee leasing
16 activities, provided that the direct cost of such actions is
17 to be paid or reimbursed within 30 days after payment by the
18 entity or person to whom the employees are leased:

19 (a) Create a separate budget entity from which leased
20 employees shall be paid and transfer the positions authorized
21 to be leased to that budget entity.

22 (b) Provide increases in the operating budget entity.

23 (c) Authorized lump-sum salary bonuses to leased
24 employees; however, any lump-sum salary bonus above the
25 automatic salary increases which may be contained in the
26 General Appropriations Act must be funded from private
27 sources.

28 (d) Approve increases in salary rate for positions
29 which are leased; however, any salary rate above the automatic
30 salary increases which may be contained in the General
31 Appropriations Act must be funded from private sources.

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1 (e) Waive any requirement for automatic salary
2 increases which may be contained in the General Appropriations
3 Act.

4 (2) Positions which are in the Senior Management
5 Service System or the Selected Exempt Service System on the
6 day before the state employee lease agreement takes effect
7 shall remain in the respective system if the duties performed
8 by the position during the assignment of the state employee
9 lease agreement are comparable as determined by the
10 department. Those Senior Management Service System or
11 Selected Exempt Service System positions which are not
12 determined comparable by the department and positions which
13 are in other pay plans on the day before the lease agreement
14 takes effect shall have the same salaries and benefits
15 provided to employees of the Office of the Governor pursuant
16 to s. 109.205(2)(k)2 ~~110.205(2)(k)2~~.

17 Section 37. Section 110.201, Florida Statutes, is
18 renumbered as section 109.201, Florida Statutes.

19 Section 38. Section 110.203, Florida Statutes, is
20 renumbered as section 109.203, Florida Statutes, and
21 subsections (11), (18), (19), (22), and (23) of said section
22 are amended to read:

23 109.203 ~~110.203~~ Definitions.--For the purpose of this
24 part and the personnel affairs of the state:

25 (11) "Pay plan" means a formal description of the
26 philosophy, methods, procedures, and salary schedules ~~schedule~~
27 for competitively compensating employees at market-based rates
28 for work performed.

29 (18) "Promotion" means ~~the~~ changing ~~of~~ the
30 classification of an employee to a class having a higher
31 maximum salary; or ~~the~~ changing ~~of~~ the classification of an

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1 employee to a class having the same or a lower maximum salary
2 but a higher level of responsibility as determined by the
3 Department of Management Services.

4 (19) "Demotion" means ~~the changing of~~ the
5 classification of an employee to a class having a lower
6 maximum salary; or ~~the changing of~~ the classification of an
7 employee to a class having the same or a higher maximum salary
8 but a lower level of responsibility as determined by the
9 Department of Management Services.

10 (22) "Dismissal" means a disciplinary action taken by
11 an agency against an employee resulting in termination of his
12 or her employment for a violation of agency standards or for
13 cause pursuant to s. 109.227 ~~110.227~~.

14 (23) "Suspension" means a disciplinary action taken by
15 an agency against an employee to temporarily relieve the
16 employee of his or her duties and place him or her on leave
17 without pay for violation of agency standards or for cause
18 pursuant to s. 109.227 ~~110.227~~.

19 Section 39. Effective July 1, 2001, subsections (22),
20 (23), and (24) of section 109.203, Florida Statutes, as
21 renumbered and amended by this act, are amended, and
22 subsections (28) and (29) are added to said section, to read:

23 109.203 Definitions.--For the purpose of this part and
24 the personnel affairs of the state:

25 (22) "Dismissal" means a disciplinary action taken by
26 an agency pursuant to s. 109.227 against an employee resulting
27 in termination of his or her employment ~~for a violation of~~
28 ~~agency standards or for cause pursuant to s. 109.227.~~

29 (23) "Suspension" means a disciplinary action taken by
30 an agency pursuant to s. 109.227 against an employee to
31 temporarily relieve the employee of his or her duties and

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1 ~~place him or her on leave without pay for violation of agency~~
2 ~~standards or for cause pursuant to s. 109.227.~~

3 (24) "Layoff" means termination of employment due to
4 abolishment of positions necessitated by a shortage of funds
5 or work, or a material change in the duties or organization of
6 an agency, including the outsourcing or privatization of an
7 activity or function previously performed by career service
8 employees.

9 (28) "Firefighter" means a firefighter certified under
10 chapter 633.

11 (29) "Law enforcement or correctional officer" means a
12 law enforcement officer, special agent, correctional officer,
13 correctional probationer officer, or institutional security
14 specialist required to be certified under chapter 943.

15 Section 40. Section 109.2035, Florida Statutes, is
16 created to read:

17 109.2035 Civil service classification and compensation
18 program.--

19 (1) The Department of Management Services, in
20 consultation with the Executive Office of the Governor and the
21 Legislature, shall develop a model civil service
22 classification and compensation program. This model program
23 shall be developed for use by all state agencies and shall
24 address all career service classes.

25 (2) The model program shall consist of the following:

26 (a) A position classification system using no more
27 than 50 occupational groups and up to a six-class series
28 structure for each occupation within an occupational group.
29 Additional occupational groups may be established only by the
30 Executive Office of the Governor after consultation with the
31 Legislature.

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1 (b) A career service pay plan which shall provide
2 broad, market-based salary ranges for each occupational group.

3 (3) The following goals shall be considered in
4 designing and implementing the model program:

5 (a) The classification system must significantly
6 reduce the need to reclassify positions due to work assignment
7 and organizational changes by decreasing the number of
8 classification changes required.

9 (b) The classification system must establish
10 broad-based classes allowing flexibility in organizational
11 structure and must reduce the levels of supervisory classes.

12 (c) The classification system and pay plan must
13 emphasize pay administration and job performance evaluation by
14 management rather than use of the classification system to
15 award salary increases.

16 (d) The pay administration system must contain
17 provisions to allow managers the flexibility to move employees
18 through the pay ranges and provide for salary increase
19 additives and lump-sum bonuses.

20 (4) The classification system shall be structured such
21 that each confidential, managerial, and supervisory employee
22 shall be included in the Selected Exempt Service, in
23 accordance with part V of this chapter.

24 (5) The Department of Management Services shall submit
25 the proposed design of the model civil service classification
26 and compensation program to the Executive Office of the
27 Governor, the presiding officers of the Legislature, and the
28 appropriate legislative fiscal and substantive standing
29 committees on or before December 1, 2001.

30 (6) The department shall establish, by rule,
31 guidelines with respect to, and shall delegate, where

1 appropriate, to the employing agencies the authority to
2 administer, the following:

- 3 (a) Shift differentials.
- 4 (b) On-call fees.
- 5 (c) Hazardous-duty pay.
- 6 (d) Advanced appointment rates.
- 7 (e) Salary increase and decrease corrections.
- 8 (f) Lead worker pay.
- 9 (g) Temporary special duties pay.
- 10 (h) Trainer additive pay.
- 11 (i) Competitive area differentials.
- 12 (j) Coordinator pay.
- 13 (k) Critical market pay.

14

15 The employing agency must use such pay additives as are
 16 appropriate within the guidelines established by the
 17 department and shall advise the department in writing of the
 18 plan for implementing such pay additives prior to the
 19 implementation date. Any action by an employing agency to
 20 implement temporary special duties pay, competitive area
 21 differentials, or critical market pay may be implemented only
 22 after the department has reviewed and recommended such action;
 23 however, an employing agency may use temporary special duties
 24 pay for up to 3 months without prior review by the department.
 25 The department shall annually provide a summary report of the
 26 pay additives implemented pursuant to this section.

27 Section 41. Section 110.205, Florida Statutes, is
 28 renumbered as section 109.205, Florida Statutes, and
 29 paragraphs (h) and (u) of subsection (2) and subsection (3) of
 30 said section are amended, and, effective July 1, 2001,
 31 paragraphs (v) and (w) are added to subsection (2) and

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1 subsection (7) is added to said section, and, effective June
2 30, 2002, paragraph (m) of subsection (2) of said section is
3 amended, to read:

4 109.205 ~~110.205~~ Career service; exemptions.--

5 (2) EXEMPT POSITIONS.--The exempt positions which are
6 not covered by this part include the following, provided that
7 no position, except for positions established for a limited
8 period of time pursuant to paragraph (h), shall be exempted if
9 the position reports to a position in the career service:

10 (h) All positions which are established for a limited
11 period of time for the purpose of conducting a special study,
12 project, or investigation and any person paid from an
13 other-personal-services appropriation. Unless otherwise fixed
14 by law, the salaries for such positions and persons shall be
15 set in accordance with rules established by the employing
16 agency for other-personal-services payments pursuant to s.
17 109.131 ~~110.131~~.

18 (m)1.a. In addition to those positions exempted by
19 other paragraphs of this subsection, each department head may
20 designate a maximum of 20 policymaking or managerial
21 positions, as defined by the department and approved by the
22 Administration Commission, as being exempt from the Career
23 Service System. Career service employees who occupy a position
24 designated as a position in the Selected Exempt Service under
25 this paragraph shall have the right to remain in the Career
26 Service System by opting to serve in a position not exempted
27 by the employing agency. Unless otherwise fixed by law, the
28 department shall set the salary and benefits of these
29 positions in accordance with the rules of the Selected Exempt
30 Service; provided, however, that if the agency head determines
31 that the general counsel, chief Cabinet aide, public

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1 information administrator or comparable position for a Cabinet
2 officer, inspector general, or legislative affairs director
3 has both policymaking and managerial responsibilities and if
4 the department determines that any such position has both
5 policymaking and managerial responsibilities, the salary and
6 benefits for each such position shall be established by the
7 department in accordance with the rules of the Senior
8 Management Service.

9 b. In addition, each department may designate one
10 additional position in the Senior Management Service if that
11 position reports directly to the agency head or to a position
12 in the Senior Management Service and if any additional costs
13 are absorbed from the existing budget of that department.

14 2. If otherwise exempt, employees of ~~the Public~~
15 ~~Employees Relations Commission~~, the Commission on Human
16 Relations, and the Unemployment Appeals Commission, upon the
17 certification of their respective commission heads, may be
18 provided for under this paragraph as members of the Senior
19 Management Service, if otherwise qualified. ~~However, the~~
20 ~~deputy general counsels of the Public Employees Relations~~
21 ~~Commission shall be compensated as members of the Selected~~
22 ~~Exempt Service.~~

23 (u) Positions which are leased pursuant to a state
24 employee lease agreement expressly authorized by the
25 Legislature pursuant to s. 109.191 ~~110.191~~.

26 (v) Managerial employees, as defined in s. 447.203(4),
27 confidential employees, as defined in s. 447.203(5), and
28 supervisory employees who spend the majority of their time
29 communicating with, motivating, training, and evaluating
30 employees, and planning and directing employees' work, and who
31 have the authority to hire, transfer, suspend, lay off,

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1 recall, promote, discharge, assign, reward, or discipline
 2 subordinate employees or effectively recommend such action,
 3 including all employees serving as supervisors,
 4 administrators, and directors, except employees also
 5 designated as special risk or special risk administrative
 6 support. Unless otherwise fixed by law, the department shall
 7 establish the salary range and benefits for these positions in
 8 accordance with the rules of the Selected Exempt Service.

9 (w) Any employee exempted and moved to the Selected
 10 Exempt Service by way of a collective bargaining agreement.

11 (3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW
 12 ENFORCEMENT.--Employees of the Department of Law Enforcement
 13 shall be subject to the provisions of s. 109.227 ~~110.227~~,
 14 except in matters relating to transfer.

15 (7) If an employee is transferred or otherwise moves
 16 from the Career Service System into the Selected Exempt
 17 Service, all of the employee's unused annual leave and unused
 18 sick leave shall carry forward with the employee and shall not
 19 be paid out.

20 Section 42. Sections 110.207, 110.209, and 110.21,
 21 Florida Statutes, are renumbered as sections 109.207, 109.209,
 22 and 109.21, Florida Statutes, respectively.

23 Section 43. Effective June 30, 2002, sections 109.207
 24 and 109.209, Florida Statutes, are repealed.

25 Section 44. Section 110.211, Florida Statutes, is
 26 renumbered as section 109.211, Florida Statutes, and amended
 27 to read:

28 109.211 ~~110.211~~ Recruitment.--

29 (1) Recruiting shall be planned and carried out in a
 30 manner that assures open competition based upon current and
 31 projected employing agency needs, taking into consideration

1 the number and types of positions to be filled and the labor
2 market conditions, with special emphasis placed on recruiting
3 efforts to attract minorities, women, or other groups that are
4 underrepresented in the workforce of the employing agency.

5 (2) Recruiting efforts to fill current or projected
6 vacancies shall be carried out in the sound discretion of the
7 agency head ~~the responsibility of the employing agency.~~

8 (3) Recruiting shall provide efficiency in advertising
9 and may be assisted by a contracted vendor responsible for
10 maintenance of the personnel data. ~~The department shall~~
11 ~~provide for executive-level recruitment and a recruitment~~
12 ~~enhancement program designed to encourage individuals to seek~~
13 ~~employment with state government and to promote better public~~
14 ~~understanding of the state as an employer.~~

15 ~~(4) An application for a publicly announced vacancy~~
16 ~~must be made directly to the employing agency.~~

17 ~~(4)(5)~~ All recruitment literature printed after July
18 1, 1979, involving state position vacancies shall contain the
19 phrase "An Equal Opportunity Employer/Affirmative Action
20 Employer."

21 ~~(6) The department shall develop model recruitment~~
22 ~~rules which may be used by employing agencies. Such rules~~
23 ~~must be approved by the Administration Commission before their~~
24 ~~adoption by the department. Employing agencies electing to~~
25 ~~adopt recruitment rules that are inconsistent with the model~~
26 ~~rules must consult with and submit such rules to the~~
27 ~~department for review. Such rules must also be approved by~~
28 ~~the Administration Commission before their adoption by the~~
29 ~~employing agencies.~~

30 Section 45. Section 110.213, Florida Statutes, is
31 renumbered as section 109.213, Florida Statutes, and amended

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1 to read:

2 109.213 ~~110.213~~ Selection.--

3 ~~(1) The department shall have the responsibility for~~
4 ~~determining guidelines for selection procedures to be utilized~~
5 ~~by the employing agencies.~~

6 ~~(2) Any selection procedure utilized in state~~
7 ~~employment shall be designed to provide maximum validity,~~
8 ~~reliability, and objectivity; shall be based on adequate job~~
9 ~~analysis to ensure job relatedness; and shall measure the~~
10 ~~relative ability, knowledge, and skill needed for entry to a~~
11 ~~job.~~

12 ~~(1)(3)~~ Selection for appointment from among the most
13 qualified candidates available eligibles shall be the sole
14 responsibility of the employing agency.

15 (2) Selection shall reflect efficiency and simplicity
16 in hiring procedures. The agency head or his or her designee
17 shall be required to document the qualifications of the
18 selected candidate to ensure that the candidate meets the
19 minimum qualifications and possesses the requisite knowledge,
20 skills, and abilities for the position. No other documentation
21 or justification shall be required prior to selecting a
22 candidate for a position.

23 ~~(4) The department shall develop model selection rules~~
24 ~~that may be used by employing agencies. Such rules must be~~
25 ~~approved by the Administration Commission before their~~
26 ~~adoption by the department. Employing agencies electing to~~
27 ~~adopt selection rules that are inconsistent with the model~~
28 ~~rules shall consult with and submit such rules to the~~
29 ~~department for review. Such rules must also be approved by the~~
30 ~~Administration Commission before their adoption by the~~
31 ~~employing agencies.~~

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1 Section 46. Sections 110.2135, 110.215, and 110.217,
2 Florida Statutes, are renumbered as sections 109.2135,
3 109.215, and 109.217, Florida Statutes, respectively.

4 Section 47. Section 110.219, Florida Statutes, is
5 renumbered as section 109.219, Florida Statutes, paragraph (c)
6 of subsection (5) of said section is amended, and subsections
7 (6) and (7) are added to said section, to read:

8 109.219 ~~110.219~~ Attendance and leave; general
9 policies.--

10 (5) Rules shall be adopted by the department in
11 cooperation and consultation with the agencies to implement
12 the provisions of this section; however, such rules must be
13 approved by the Administration Commission prior to their
14 adoption. Such rules must provide for, but need not be limited
15 to:

16 (c) Holidays as provided in s. 109.117 ~~110.117~~.

17 (6) The leave benefits provided to Senior Management
18 Service employees shall not exceed those provided to employees
19 in the Selected Exempt Service.

20 (7) Each December, a career service employee shall be
21 entitled, subject to available funds, to a payout of up to 24
22 hours of unused annual leave as follows:

23 (a) An employee must have an annual leave balance of
24 no less than 24 hours, after the payout, in order to qualify
25 for this benefit.

26 (b) No employee shall receive a payout of greater than
27 240 hours over the course of the employee's career with the
28 state, including any leave received at the time of separation.

29 Section 48. Section 110.221, Florida Statutes, is
30 renumbered as section 109.221, Florida Statutes.

31 Section 49. Section 110.224, Florida Statutes, is

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1 renumbered as section 109.224, Florida Statutes, and amended
2 to read:

3 109.224 ~~110.224~~ Review and performance evaluation
4 ~~planning~~ system.--A review and performance evaluation ~~planning~~
5 system shall be established as a basis to evaluate and improve
6 ~~for improving~~ the performance of the state's workforce, to
7 ~~provide documentation in support of recommendations for salary~~
8 ~~increases, promotions, demotions, reassignments, or~~
9 ~~dismissals~~ to inform employees of strong and weak points in
10 the employee's performance, to identify improvements expected,
11 ~~and current and future training needs, and to award lump-sum~~
12 bonuses in accordance with s. 109.1245(2) ~~and to assist in~~
13 ~~determining the order of layoff and reemployment.~~

14 (1) Upon original appointment, promotion, demotion, or
15 reassignment, a job description of the position assigned each
16 ~~career service employee~~ must be made available to the career
17 service employee given a statement of the work expectations
18 ~~and performance standards applicable to the position.~~ The job
19 description may be made available in an electronic format.
20 ~~statement may be included in the position description or in a~~
21 ~~separate document. An employee will not be required to meet~~
22 ~~work expectations or performance standards that have not been~~
23 ~~furnished in writing to the employee.~~

24 (2) Each employee must have a employee's performance
25 evaluation must be reviewed at least annually, and the
26 employee must receive a copy an oral and written assessment of
27 his or her performance evaluation. The performance evaluation
28 ~~assessment~~ may include a plan of ~~corrective~~ action for
29 improvement of the employee's performance based on the work
30 expectations or performance standards applicable to the
31 position as determined by the agency head.

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1 (3) The department may adopt rules to administer the
2 review and performance evaluation ~~planning~~ system which
3 establish procedures for performance evaluation, ~~procedures to~~
4 ~~be followed in case of failure to meet performance standards,~~
5 review periods, and forms.

6 Section 50. Section 110.227, Florida Statutes, is
7 renumbered as section 109.227, Florida Statutes, and,
8 effective July 1, 2001, subsections (1), (2), and (3) and
9 paragraph (a) of subsection (5) of said section are amended,
10 present subsections (6) and (7) are amended and renumbered,
11 and a new subsection (6) is added to said section, and,
12 effective January 1, 2002, subsection (4) and paragraph (b) of
13 subsection (5) of said section are amended, to read:

14 109.227 ~~110.227~~ Suspensions, dismissals, reductions in
15 pay, demotions, layoffs, transfers, and grievances.--

16 (1) Any employee other than a law enforcement or
17 correctional officer or a firefighter who has permanent status
18 in the career service may only be suspended or dismissed for
19 reasonable cause. Reasonable cause shall be a determination
20 made within the sound discretion of the agency head and
21 includes ~~include~~, but is not ~~be~~ limited to, negligence,
22 inefficiency or inability to perform assigned duties,
23 insubordination, ~~willful~~ violation of the provisions of law or
24 agency rules, conduct unbecoming a public employee,
25 misconduct, habitual drug abuse, or conviction of any crime
26 ~~involving moral turpitude~~. A law enforcement or correctional
27 officer or a firefighter who has permanent status in the
28 career service may only be suspended or dismissed for just
29 cause. The ~~Each~~ agency head shall ensure that all employees of
30 the agency have reasonable access to the agency's personnel
31 manual ~~are completely familiar with the agency's established~~

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1 ~~procedures on disciplinary actions and grievances.~~

2 (2) The department shall establish rules and
3 procedures for the suspension, reduction in pay, transfer,
4 layoff, demotion, and dismissal of employees in the career
5 service. Except with regard to law enforcement or correctional
6 officers or firefighters, rules regarding layoff procedures
7 shall not include any system whereby a career service employee
8 with greater seniority has the option of selecting a different
9 position not being eliminated, but already occupied by an
10 employee of less seniority, and taking that employee's
11 position, commonly referred to as "bumping."Such rules shall
12 be approved by the Administration Commission prior to their
13 adoption by the department. This subsection does not prohibit
14 collective bargaining units from seeking to incorporate
15 "bumping" in their collective bargaining agreements.

16 (3)(a) With regard to law enforcement or correctional
17 officers or firefighters,when a layoff becomes necessary,
18 such layoff shall be conducted within the competitive area
19 identified by the agency head and approved by the Department
20 of Management Services. Such competitive area shall be
21 established taking into consideration the similarity of work;
22 the organizational unit, which may be by agency, department,
23 division, bureau, or other organizational unit; and the
24 commuting area for the work affected.

25 (b) Layoff procedures shall be developed to establish
26 the relative merit and fitness of employees and shall include
27 a formula for uniform application among potentially adversely
28 affected employees, or, with respect to law enforcement or
29 correctional officers or firefighters, among all employees in
30 the competitive area, taking into consideration the type of
31 appointment, the length of service, and the evaluations of the

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1 employee's performance within the last 5 years of employment.

2 (4) Any permanent career service employee subject to
3 reduction in pay, transfer, layoff, or demotion from a class
4 in which he or she has permanent status in the Career Service
5 System shall be notified in writing by the agency prior to its
6 taking such action. The notice may be delivered to the
7 employee personally or may be sent by certified mail with
8 return receipt requested. As of January 1, 2002, such actions
9 shall be appealable to the circuit court, or the aggrieved
10 employee may request voluntary binding arbitration as provided
11 in s. 109.240 Public Employees Relations Commission, pursuant
12 to s. 447.208 and rules adopted by the commission. Appeals
13 based on the protections provided by the Whistle-blower's Act,
14 ss. 112.3187-112.31895, must be filed with the Commission on
15 Human Relations as provided for in that act.

16 (5)(a) Any permanent career service employee who is
17 subject to suspension or dismissal shall receive written
18 notice of such action at least 10 days prior to the date such
19 action is to be taken. Subsequent to such notice, and prior to
20 the date the action is to be taken, an affected employee other
21 than a law enforcement or correctional officer or a
22 firefighter shall be given an opportunity to appear before the
23 agency head or the agency head's designee to rebut the
24 conclusion that reasonable grounds exist for the suspension or
25 dismissal.Subsequent to such notice, and prior to the date
26 the action is to be taken, an the affected law enforcement or
27 correctional officer or a firefighter ~~employee~~ shall be given
28 an opportunity to appear before the agency or official taking
29 the action to answer orally and in writing the charges against
30 him or her. The notice to the employee required by this
31 paragraph may be delivered to the employee personally or may

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1 be sent by certified mail with return receipt requested. An
2 employee who is suspended or dismissed shall be entitled to a
3 hearing before the Public Employees Relations Commission or
4 its designated agent pursuant to s. 447.208 and rules adopted
5 by the commission.

6 (b) In extraordinary situations such as when the
7 retention of a permanent career service employee would result
8 in damage to state property, would be detrimental to the best
9 interest of the state, or would result in injury to the
10 employee, a fellow employee, or some other person, such
11 employee may be suspended or dismissed without 10 days' prior
12 notice, provided that written or oral notice of such action,
13 evidence of the reasons therefor, and an opportunity to rebut
14 the charges are furnished to the employee prior to such
15 dismissal or suspension. Such notice may be delivered to the
16 employee personally or may be sent by certified mail with
17 return receipt requested. Agency compliance with the foregoing
18 procedure requiring notice, evidence, and an opportunity for
19 rebuttal must be substantiated. As of January 1, 2002, any
20 employee who is suspended or dismissed pursuant to the
21 provisions of this paragraph shall be entitled to a hearing
22 before the circuit court, or the aggrieved employee may
23 request voluntary binding arbitration as provided in s.
24 109.240 ~~Public Employees Relations Commission or its~~
25 ~~designated agent pursuant to s. 447.208, except that such~~
26 ~~hearing shall be held no more than 20 days after the filing of~~
27 ~~the notice of appeal by the employee. Appeals based on the~~
28 ~~protections provided by the Whistle-blower's Act, ss.~~
29 ~~112.3187-112.31895, must be filed with the Commission on Human~~
30 ~~Relations as provided for in that act.~~

31 (6) For any alleged adverse agency action against an

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1 employee, other than a law enforcement or correctional officer
2 or a firefighter, occurring on or after July 1, 2001, the
3 adversely affected employee bears the burden of proof to
4 establish by preponderance of the evidence that the agency
5 head abused his or her discretion in suspending, dismissing,
6 reducing the pay of, demoting, laying off, or transferring
7 that employee and that no reasonable cause existed for the
8 alleged adverse action taken by the agency, or that the
9 alleged adverse action was in violation of s. 109.233. For any
10 alleged adverse agency action against a law enforcement or
11 correctional officer or a firefighter occurring on or after
12 July 1, 2001, the agency must prove just cause for suspending,
13 dismissing, reducing the pay of, demoting, laying off, or
14 transferring that employee.

15 ~~(7)(6)~~ A grievance process shall be available to
16 career service employees. A grievance is defined as the
17 dissatisfaction that occurs when an employee believes ~~thinks~~
18 ~~or feels~~ that any condition affecting the employee is unjust,
19 inequitable, or a hinderance to effective operation, or
20 creates a problem, except that an employee shall not have the
21 right to file a grievance against performance evaluations
22 unless the employee alleges ~~it is alleged~~ that the evaluation
23 is based on factors other than the employee's performance.
24 Claims of discrimination and sexual harassment, suspensions,
25 reductions in pay, transfers, layoffs, demotions, and
26 dismissals are not subject to the career service grievance
27 process.

28 ~~(8)(7)~~ The department shall adopt rules for
29 administration of the grievance process for career service
30 employees. Such rules shall establish agency grievance
31 procedures, eligibility, filing deadlines, forms, and review

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1 and evaluation governing the grievance process.

2 Section 51. Effective January 1, 2002, paragraph (a)
3 of subsection (5) of section 109.227, Florida Statutes, as
4 renumbered and amended by this act, is amended to read:

5 109.227 Suspensions, dismissals, reductions in pay,
6 demotions, layoffs, transfers, and grievances.--

7 (5)(a) Any permanent career service employee who is
8 subject to suspension or dismissal shall receive written
9 notice of such action at least 10 days prior to the date such
10 action is to be taken. Subsequent to such notice, and prior to
11 the date the action is to be taken, an affected employee other
12 than a law enforcement or correctional officer or a
13 firefighter shall be given an opportunity to appear before the
14 agency head or the agency head's designee to rebut the
15 conclusion that reasonable grounds exist for the suspension or
16 dismissal. Subsequent to such notice, and prior to the date
17 the action is to be taken, an affected law enforcement or
18 correctional officer or a firefighter shall be given an
19 opportunity to appear before the agency or official taking the
20 action to answer orally and in writing the charges against him
21 or her. The notice to the employee required by this paragraph
22 may be delivered to the employee personally or may be sent by
23 certified mail with return receipt requested. As of January 1,
24 2002, an employee who is suspended or dismissed shall be
25 entitled to a hearing before the circuit court, or the
26 aggrieved employee may request voluntary binding arbitration
27 as provided in s. 109.240 Public Employees Relations
28 Commission or its designated agent pursuant to s. 447.208 and
29 rules adopted by the commission. Appeals based on the
30 protections provided by the Whistle-blower's Act, ss.
31 112.3187-112.31895, must be filed with the Commission on Human

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1 Relations as provided for in that act.

2 Section 52. Section 110.233, Florida Statutes, is
3 renumbered as section 109.233, Florida Statutes, and paragraph
4 (a) of subsection (4) of said section is amended to read:

5 109.233 ~~110.233~~ Political activities and unlawful acts
6 prohibited.--

7 (4) As an individual, each employee retains all rights
8 and obligations of citizenship provided in the Constitution
9 and laws of the state and the Constitution and laws of the
10 United States. However, no employee in the career service
11 shall:

12 (a) Hold, or be a candidate for, public office while
13 in the employment of the state or take any active part in a
14 political campaign while on duty or within any period of time
15 during which the employee is expected to perform services for
16 which he or she receives compensation from the state. However,
17 when authorized by his or her agency head and approved by the
18 department of ~~Management Services~~ as involving no interest
19 which conflicts or activity which interferes with his or her
20 state employment, an employee in the career service may be a
21 candidate for or hold local public office. The department of
22 ~~Management Services~~ shall prepare and make available to all
23 affected personnel who make such request a definite set of
24 rules and procedures consistent with the provisions herein.

25 Section 53. Section 110.235, Florida Statutes, is
26 renumbered as section 109.235, Florida Statutes, and
27 subsection (1) of said section is amended to read:

28 109.235 ~~110.235~~ Training.--

29 (1) ~~It is the intent of the Legislature that State~~
30 agencies shall implement training programs that encompass
31 modern management principles, and that provide the framework

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1 to develop human resources through empowerment, training, and
2 rewards for productivity enhancement; to continuously improve
3 the quality of services; and to satisfy the expectations of
4 the public.

5 Section 54. (1) Except as otherwise provided,
6 effective January 1, 2002, section 109.240, Florida Statutes,
7 is created to read:

8 109.240 Voluntary binding arbitration.--

9 (1) Upon receipt of notice of an adverse agency
10 action, any permanent career service employee may request
11 voluntary binding arbitration administered by the Office of
12 Employee Relations. As used in this section, "adverse agency
13 action" means the suspension, dismissal, reduction in pay,
14 demotion, layoff, or transfer of an employee. Any eligible
15 employee choosing to participate in voluntary binding
16 arbitration must file a written request for arbitration with
17 the office no later than 14 days after the receipt of notice
18 of the adverse agency action.

19 (2) The arbitration request must be submitted on a
20 form prescribed by the office by rule. The form must be signed
21 by the employee and must include stipulations that:

22 (a) The employee is voluntarily participating in
23 binding arbitration pursuant to this section.

24 (b) The arbitration order is final and may not be set
25 aside except for an error in law that is apparent on the
26 record.

27 (c) The employee will faithfully abide by the
28 arbitration order unless otherwise determined by a court of
29 competent jurisdiction.

30 (3) Upon receipt of the arbitration request, the
31 office shall provide written notice to the agency against

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1 which a request is made regarding the employee request for
2 binding arbitration. The agency must participate in the
3 requested binding arbitration. Binding arbitration shall not
4 be conducted pursuant to this section unless the employee
5 requests it.

6 (4)(a) The employee bears the burden of establishing
7 by a preponderance of the evidence that the agency action
8 complained of was adverse, that the agency head abused his or
9 her discretion in taking the adverse agency action, and that
10 no reasonable cause existed for the adverse agency action.
11 This paragraph does not apply to law enforcement or
12 correctional officers or firefighters.

13 (b) With regard to law enforcement or correctional
14 officers or firefighters, the employer must prove just cause
15 for the adverse agency action.

16 (5)(a) The voluntary binding arbitration shall be
17 heard and determined by an employee panel that consists of
18 three randomly selected career service employees chosen by the
19 office in a manner to ensure a balanced representation of
20 employees from each pay classification. At least one of the
21 employees selected to serve on an employee panel must be a
22 member of the same pay classification as the employee
23 requesting binding arbitration. This paragraph does not apply
24 to law enforcement or correctional officers or firefighters.

25 (b) With regard to law enforcement or correctional
26 officers or firefighters, the voluntary binding arbitration
27 shall be heard and determined by an employee panel that
28 consists of three career service employees selected as
29 follows:

30 1. One panel member who is a member of the same pay
31 classification as the employee requesting the voluntary

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1 binding arbitration, selected by that employee.

2 2. One panel member who is a member of the same pay
3 classification as the employee requesting the voluntary
4 binding arbitration, selected by the employer.

5 3. One panel member jointly selected by the other two
6 panel members. If the two panel members do not agree on the
7 jointly selected panel member, the office shall select that
8 panel member.

9 (c) The employee panel shall receive procedural
10 direction and legal advice from the arbitrator appointed by
11 the office.

12 (d) No employee currently employed or employed within
13 the preceding 6 months by the agency participating in the
14 binding arbitration shall be selected for an employee panel.
15 Employees selected to serve on an employee panel shall hear
16 all evidence submitted by the parties in arbitration and their
17 decision shall be governed by the statutory burden of proof.
18 The office shall reimburse agencies for the daily tasks of
19 each agency employee that serves on an employee panel.

20 (e) The employee panel shall make all findings of fact
21 and determination of claims. The arbitrator shall draft the
22 arbitration decision for submission to the members of the
23 employee panel for their approval and signatures. Unless
24 otherwise provided in the decision, the decision shall become
25 final 10 days after its execution by the panel.

26 (6) Any party may be represented by counsel or another
27 appointed representative. The arbitrator and employee panel
28 must complete all arbitration of the employee's claims raised
29 in the request within 60 days after receipt of the claim. The
30 arbitrator may extend the 60-day period upon request of the
31 parties or at the request of one party, after a hearing on

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1 that party's request for extension.

2 (7)(a) The arbitrator selected by the office shall not
3 be an employee within the Career Service System, the Select
4 Management Service, or the Selected Exempt Service. Each
5 selected arbitrator must, at a minimum, meet the following
6 requirements:

7 1. Completion of a Florida Supreme Court certified
8 circuit or county arbitration program, or other arbitration
9 program approved by the office, in addition to a minimum of 1
10 day of training in the application of this chapter and chapter
11 447 and any rules adopted thereunder.

12 2. Compliance with the Code of Ethics for Arbitrators
13 in Employment Disputes published by the American Arbitration
14 Association and the American Bar Association in 1977, as
15 amended.

16 3. Membership in good standing in The Florida Bar.

17 (b) The arbitrator shall have authority to commence
18 and adjourn the arbitration hearing. The arbitrator shall not
19 have authority to hold any person in contempt or to in any way
20 impose sanctions against any person. The arbitrator shall
21 provide assistance to the employee panel on questions of law.

22 (c) The arbitrator shall schedule all arbitration
23 proceedings, including the date, time, and location of such
24 proceedings and provide notice of the arbitration proceeding
25 to the parties at least 5 days in advance of the hearing date,
26 unless otherwise agreed to by the parties. The arbitrator has
27 the discretion to grant a continuance for reasonable cause.

28 (d) The arbitrator may set a preliminary conference
29 and require all parties to file a statement of position prior
30 to the conference. The statement of position may include
31 stipulations of the parties to uncontested facts and

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1 applicable law, citations to all governing statutory or
2 regulatory laws that control the controversy, a list of issues
3 of fact and law that are in dispute, any proposals designed to
4 expedite the arbitration process, a list of documents
5 exchanged by the parties and a schedule for the delivery of
6 any additional relevant documents, identification of witnesses
7 expected to be called during the arbitration proceeding
8 accompanied by a short summary of their expected testimony,
9 and any other matters specified by the arbitrator.

10 (8) The duties of the office in administering
11 voluntary binding arbitration pursuant to this section
12 include, but are not limited to, the following:

13 (a) Supporting the arbitration process, including the
14 filing and noticing of all arbitration requests, objections,
15 and other party communications; the selection of the
16 arbitrator; and the design and operation of the employee panel
17 pool.

18 (b) Providing for the selection of the employee panel
19 and arbitrator, which includes:

20 1. Providing selection notice to all parties, the
21 arbitrator, and the employee panel participants.

22 2. Securing a signed disclosure statement from each
23 appointed arbitrator and selected employee describing any
24 circumstances likely to affect impartiality, including any
25 bias or any financial or personal interest with either party
26 or any present or past relationship with the employee seeking
27 binding arbitration, and making these disclosure statements
28 available to the parties. The duty to disclose shall be a
29 continuing obligation throughout the arbitration process.

30 3. Filling vacancies.

31 4. Compensating arbitrators, provided that an

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1 arbitrator's fees and expenses shall not exceed \$500 per day
2 for case preparation, prehearing conferences, hearings, and
3 preparation of the arbitration order.

4 5. Making an electronic recording of each arbitration
5 proceeding, including preconference hearings, even when a
6 party chooses to make a stenographic recording of the
7 arbitration proceeding at that party's expense.

8 (c) Publishing the final arbitration order submitted
9 to the office by both parties and the arbitrator.

10 (9) The office shall maintain records of each dispute
11 submitted to voluntary binding arbitration, including the
12 recordings of the arbitration hearings. All records maintained
13 by the office under this section shall be public records and
14 shall be available for inspection upon reasonable notice.

15 (10) The arbitration proceedings shall be governed by
16 the following procedural requirements:

17 (a) A party may object to the arbitrator or any
18 employee on the panel based on the arbitrator's or employee's
19 past or present, direct or indirect, relationship with either
20 party or either party's attorney, whether that relationship
21 was or is financial, professional, or social. The arbitrator
22 shall consider any objection to a panel employee, determine
23 its validity, and notify the parties of his or her
24 determination. If the objection is determined valid, the
25 office shall assign another employee from the employee panel
26 pool. The office shall consider any objection to the
27 arbitrator, determine its validity, and notify the parties of
28 its determination. If the objection is determined valid, the
29 office shall appoint another arbitrator.

30 (b) The arbitrator has the power to issue subpoenas,
31 and to effect discovery on the written request of any party by

1 any means available to the courts and in the manner provided
2 in the Florida Rules of Civil Procedure, including the
3 imposition of sanctions, excluding contempt. Fees for
4 attendance of witnesses shall be the same as that provided in
5 civil actions in circuit courts of this state.

6 (c) At all arbitration proceedings, the parties may
7 present oral and written testimony, present witnesses and
8 evidence relevant to the dispute, cross-examine witnesses, and
9 be represented by counsel. The arbitrator shall record the
10 arbitration hearing and shall have the power to administer
11 oaths.

12 (d) The arbitrator may continue a hearing on his or
13 her own motion or upon the request of the party for good cause
14 shown. A request for continuance by the employee constitutes a
15 waiver of the 60-day time period for completion of all
16 arbitration proceedings authorized under this section.

17 (e) The employee panel shall render its decision
18 within 10 days after the closing of the hearing. The decision
19 shall be in writing on a form prescribed or adopted by the
20 office. The arbitrator shall send a copy of the decision to
21 the parties by registered mail.

22 (f) Unless otherwise provided, the arbitration
23 decision rendered by the employee panel and any appeals
24 thereof are exempt from the provisions of chapter 120.

25 (11)(a) The office shall establish rules of procedure
26 governing the arbitration process. Such rules shall include,
27 but are not limited to:

28 1. The exchange and filing of information among the
29 parties.

30 2. Discovery.

31 3. Offering evidence.

- 1 4. Calling and excluding witnesses.
- 2 5. Submitting evidence by affidavit.
- 3 6. Attendance of the parties and witnesses.
- 4 7. The order of proceedings.

5 (b) The office may adopt additional rules necessary to
 6 implement this section.

7 (12) Either party may make application to the circuit
 8 court for the county in which one of the parties resides or
 9 has a place of business, or the county where the arbitration
 10 hearing was held, for an order confirming, vacating, or
 11 modifying the arbitration decision. Such application must be
 12 filed within 30 days after the later of the moving party's
 13 receipt of the written decision or the date the decision
 14 becomes final. Upon filing such application, the moving party
 15 shall mail a copy to the office and, upon entry of any
 16 judgment or decree, shall mail a copy of such judgment or
 17 decree to the office. A review of such application to circuit
 18 court shall be limited to review on the record and not de
 19 novo, of:

20 (a) Any alleged failure of the arbitrator to comply
 21 with the applicable rules of procedure or evidence.

22 (b) Any alleged partiality or misconduct by an
 23 arbitrator prejudicing the rights of any party.

24 (c) Whether the decision reaches a result contrary to
 25 the United States Constitution or the Florida Constitution.

26

27 If the arbitrator and employee panel fail to state findings or
 28 reasons for the stated decision, or the findings and reasons
 29 are inadequate, the court shall search the record to determine
 30 whether a basis exists to uphold the decision.

31 (13) The office, the arbitrator, and the employee

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1 panel shall have absolute immunity from liability arising from
 2 the performance of their duties while acting within the scope
 3 of their appointed function in any arbitration conducted under
 4 this section.

5 (2) For purposes of rulemaking by the Office of
 6 Employee Relations, subsection (11) of s. 109.240, Florida
 7 Statutes, as created by this section, shall take effect July
 8 1, 2001.

9 Section 55. Section 110.401, Florida Statutes, is
 10 renumbered as section 109.401, Florida Statutes, and amended
 11 to read:

12 109.401 ~~110.401~~ Declaration of policy.--~~It is the~~
 13 ~~intent of~~ This part creates ~~to create~~ a uniform system for
 14 attracting, retaining, and developing highly competent
 15 senior-level managers at the highest
 16 executive-management-level agency positions in order for the
 17 highly complex programs and agencies of state government to
 18 function effectively, efficiently, and productively. The
 19 Legislature recognizes that senior-level management is an
 20 established profession and that the public interest is best
 21 served by developing and refining the management skills of its
 22 Senior Management Service employees. Accordingly ~~To this end,~~
 23 training and management-development programs are regarded as a
 24 major administrative function within agencies.

25 Section 56. Section 110.402, Florida Statutes, is
 26 renumbered as section 109.402, Florida Statutes, and
 27 subsection (2) of said section is amended to read:

28 109.402 ~~110.402~~ Senior Management Service; creation,
 29 coverage.--

30 (2) The Senior Management Service shall be limited to
 31 those positions which are exempt from the Career Service

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1 System by s. 109.205(2)~~110.205(2)~~ and for which the salaries
2 and benefits are set by the department in accordance with the
3 rules of the Senior Management Service.

4 Section 57. Section 110.403, Florida Statutes, is
5 renumbered as section 109.403, Florida Statutes, and amended
6 to read:

7 109.403 ~~110.403~~ Powers and duties of the Department of
8 Management Services.--

9 (1) ~~In order to implement the purposes of this part,~~
10 ~~The department of Management Services,~~ after approval by the
11 Administration Commission, shall adopt and amend rules that
12 provide ~~providing~~ for:

13 (a) A system for employing, promoting, or reassigning
14 managers that is responsive to organizational or program
15 needs. In no event shall the number of positions included in
16 the Senior Management Service exceed 0.5 percent of the total
17 full-time equivalent positions in the career service. The
18 department shall deny approval to establish any position
19 within the Senior Management Service which would exceed the
20 limitation established in this paragraph. The department
21 shall report that the limitation has been reached to the
22 Governor, the President of the Senate, and the Speaker of the
23 House of Representatives, as soon as practicable after such
24 event occurs. Employees in the Senior Management Service shall
25 serve at the pleasure of the agency head and shall be subject
26 to suspension, dismissal, reduction in pay, demotion,
27 transfer, or other personnel action at the discretion of the
28 agency head. Such personnel actions are exempt from the
29 provisions of chapter 120.

30 (b) A performance appraisal system which shall take
31 into consideration individual and organizational efficiency,

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1 productivity, and effectiveness.

2 (c) A classification plan and a salary and benefit
3 plan that provides appropriate incentives for the recruitment
4 and retention of outstanding management personnel and provides
5 for salary increases based on performance.

6 (d) A system of rating duties and responsibilities for
7 positions within the Senior Management Service and the
8 qualifications of candidates for those positions.

9 (e) A system for documenting actions taken on agency
10 requests for approval of position exemptions and special pay
11 increases.

12 (f) Requirements regarding recordkeeping by agencies
13 with respect to Senior Management Service positions. Such
14 records shall be audited periodically by the department of
15 ~~Management Services~~ to determine agency compliance with the
16 provisions of this part and with the department's rules of the
17 ~~Department of Management Services~~.

18 (g) Other procedures relating to personnel
19 administration to carry out the purposes of this part.

20 (h) A program of affirmative and positive action that
21 will ensure full utilization of the rich diversity of
22 Florida's human resources ~~women and minorities~~ in Senior
23 Management Service positions.

24 (2) The powers, duties, and functions of the
25 department of ~~Management Services~~ shall include responsibility
26 for the policy administration of the Senior Management
27 Service.

28 (3) The department of ~~Management Services~~ shall have
29 the following additional responsibilities:

30 (a) To establish and administer a professional
31 development program which shall provide for the systematic

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1 development of managerial, executive, or administrative
2 skills.

3 (b) To promote public understanding of the purposes,
4 policies, and programs of the Senior Management Service.

5 (c) To approve contracts of employing agencies with
6 persons engaged in the business of conducting multistate
7 executive searches to identify qualified and available
8 applicants for Senior Management Service positions for which
9 the department ~~of Management Services~~ sets salaries in
10 accordance with the classification and pay plan. Such
11 contracts may be entered by the agency head only after
12 completion of an unsuccessful in-house search. The department
13 ~~of Management Services~~ shall establish, by rule, the minimum
14 qualifications for persons desiring to conduct executive
15 searches, including a requirement for the use of contingency
16 contracts. These ~~Such~~ rules shall ensure that such persons
17 possess the requisite capacities to perform effectively at
18 competitive industry prices. These ~~The Department of~~
19 ~~Management Services shall make the rules~~ shall also required
20 ~~pursuant to this paragraph in such a manner as to comply with~~
21 state and federal laws and regulations governing equal
22 opportunity employment.

23 (4) All policies and procedures adopted by the
24 department ~~of Management Services~~ regarding the Senior
25 Management Service shall comply with all federal regulations
26 necessary to permit the state agencies to be eligible to
27 receive federal funds.

28 (5) The department ~~of Management Services~~ shall adopt,
29 by rule, procedures for Senior Management Service employees
30 that require disclosure to the agency head of any application
31 for or offer of employment, gift, contractual relationship, or

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1 financial interest with any individual, partnership,
2 association, corporation, utility, or other organization,
3 whether public or private, doing business with or subject to
4 regulation by the agency.

5 Section 58. Effective July 1, 2001, paragraph (a) of
6 subsection (1) of section 109.403, Florida Statutes, as
7 renumbered and amended by this act, is amended to read:

8 109.403 Powers and duties of the Department of
9 Management Services.--

10 (1) The department, after approval by the
11 Administration Commission, shall adopt and amend rules which
12 provide for:

13 (a) A system for employing, promoting, or reassigning
14 managers that is responsive to organizational or program
15 needs. In no event shall the number of positions included in
16 the Senior Management Service exceed 1.5 ~~0.5~~ percent of the
17 total full-time equivalent positions in the career service.
18 The department shall deny approval to establish any position
19 within the Senior Management Service which would exceed the
20 limitation established in this paragraph. The department
21 shall report that the limitation has been reached to the
22 Governor, the President of the Senate, and the Speaker of the
23 House of Representatives, as soon as practicable after such
24 event occurs. Employees in the Senior Management Service shall
25 serve at the pleasure of the agency head and shall be subject
26 to suspension, dismissal, reduction in pay, demotion,
27 transfer, or other personnel action at the discretion of the
28 agency head. Such personnel actions are exempt from the
29 provisions of chapter 120.

30 Section 59. Section 110.405, Florida Statutes, is
31 renumbered as section 109.405, Florida Statutes.

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1 Section 60. Section 110.406, Florida Statutes, is
2 renumbered as section 109.406, Florida Statutes, and paragraph
3 (a) of subsection (2) and subsection (3) of said section are
4 amended to read:

5 109.406 ~~110.406~~ Senior Management Service; data
6 collection.--

7 (2) The data required by this section shall include:

8 (a) A detailed description of the specific actions
9 that have been taken by the department to implement the
10 provisions of s. 109.403 ~~110.403~~.

11 (3) To assist in the preparation of the data required
12 by this section, the secretary may hire a consultant with
13 expertise in the field of personnel management and may use the
14 services of the advisory committee authorized in s. 109.405
15 ~~110.405~~.

16 Section 61. Section 110.501, Florida Statutes, is
17 renumbered as section 109.501, Florida Statutes.

18 Section 62. Section 110.502, Florida Statutes, is
19 renumbered as section 109.502, Florida Statutes, and
20 subsections (2) and (3) of said section are amended to read:

21 109.502 ~~110.502~~ Scope of act; status of volunteers.--

22 (2) Volunteers recruited, trained, or accepted by any
23 state department or agency shall not be subject to any
24 provisions of law relating to state employment, to any
25 collective bargaining agreement between the state and any
26 employees' association or union, or to any laws relating to
27 hours of work, rates of compensation, leave time, and employee
28 benefits, except those consistent with s. 109.504 ~~110.504~~.
29 However, all volunteers shall comply with applicable
30 department or agency rules.

31 (3) Every department or agency utilizing the services

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1 of volunteers is hereby authorized to provide such incidental
2 reimbursement or benefit consistent with the provisions of s.
3 109.504 ~~110.504~~, including transportation costs, lodging, and
4 subsistence, recognition, and other accommodations as the
5 department or agency deems necessary to assist, recognize,
6 reward, or encourage volunteers in performing their functions.
7 No department or agency shall expend or authorize an
8 expenditure therefor in excess of the amount provided for to
9 the department or agency by appropriation in any fiscal year.

10 Section 63. Sections 110.503 and 110.504, Florida
11 Statutes, are renumbered as sections 109.503 and 109.504,
12 Florida Statutes, respectively.

13 Section 64. Section 110.601, Florida Statutes, is
14 renumbered as section 109.601, Florida Statutes, and amended
15 to read:

16 109.601 ~~110.601~~ Declaration of policy.--~~It is the~~
17 ~~purpose of~~ This part creates to create a system of personnel
18 management the purpose of which is to deliver ~~which ensures to~~
19 ~~the state the delivery of~~ high-quality performance by those
20 employees in select exempt classifications by facilitating the
21 state's ability to attract and retain qualified personnel in
22 these positions, while also providing sufficient management
23 flexibility to ensure that the workforce is responsive to
24 agency needs. The Legislature recognizes that the public
25 interest is best served by developing and refining the
26 technical and managerial skills of its Selected Exempt Service
27 employees, and, to this end, technical training and management
28 development programs are regarded as a major administrative
29 function within agencies.

30 Section 65. Section 110.602, Florida Statutes, is
31 renumbered as section 109.602, Florida Statutes, and amended

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1 to read:

2 109.602 ~~110.602~~ Selected Exempt Service; creation,
3 coverage.--The Selected Exempt Service is created as a
4 separate system of personnel administration for select exempt
5 positions. Such positions shall include, and shall be limited
6 to, those positions which are exempt from the Career Service
7 System pursuant to s. 109.205(2) and (5)~~110.205(2) and (5)~~
8 and for which the salaries and benefits are set by the
9 department in accordance with the rules of the Selected Exempt
10 Service. The department shall designate all positions included
11 in the Selected Exempt Service as either
12 managerial/policymaking, professional, or
13 nonmanagerial/nonpolicymaking. In no event shall the number of
14 positions included in the Selected Exempt Service, excluding
15 those positions designated as professional or
16 nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total
17 full-time equivalent positions in the career service. The
18 department shall deny approval to establish any position
19 within the Selected Exempt Service which would exceed the
20 limitation established in this section. The department shall
21 report that the limitation has been reached to the Governor,
22 the President of the Senate, and the Speaker of the House of
23 Representatives, as soon as practicable after such event
24 occurs.

25 Section 66. Effective July 1, 2001, section 109.602,
26 Florida Statutes, as renumbered and amended by this act, is
27 amended to read:

28 109.602 Selected Exempt Service; creation,
29 coverage.--The Selected Exempt Service is created as a
30 separate system of personnel administration for select exempt
31 positions. Such positions shall include, and shall be limited

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1 to, those positions which are exempt from the Career Service
2 System pursuant to s. 109.205(2) and (5) and for which the
3 salaries and benefits are set by the department in accordance
4 with the rules of the Selected Exempt Service. The department
5 shall designate all positions included in the Selected Exempt
6 Service as either managerial/policymaking, professional, or
7 nonmanagerial/nonpolicymaking. ~~In no event shall the number of~~
8 ~~positions included in the Selected Exempt Service, excluding~~
9 ~~those positions designated as professional or~~
10 ~~nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total~~
11 ~~full-time equivalent positions in the career service. The~~
12 ~~department shall deny approval to establish any position~~
13 ~~within the Selected Exempt Service which would exceed the~~
14 ~~limitation established in this section. The department shall~~
15 ~~report that the limitation has been reached to the Governor,~~
16 ~~the President of the Senate, and the Speaker of the House of~~
17 ~~Representatives, as soon as practicable after such event~~
18 ~~occurs.~~

19 Section 67. Sections 110.603 and 110.604, Florida
20 Statutes, are renumbered as sections 109.603 and 109.604,
21 Florida Statutes, respectively.

22 Section 68. Section 110.605, Florida Statutes, is
23 renumbered as section 109.605, Florida Statutes, and
24 subsection (1) of said section is amended to read:

25 109.605 ~~110.605~~ Powers and duties; personnel rules,
26 records, reports, and performance appraisal.--

27 (1) The department shall adopt and administer uniform
28 personnel rules, records, and reports relating to employees
29 and positions in the Selected Exempt Service, as well as any
30 other rules and procedures relating to personnel
31 administration which are necessary to carry out the purposes

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1 of this part.

2 (a) The department shall develop uniform forms and
3 instructions to be used in reporting transactions which
4 involve changes in an employee's salary, status, performance,
5 leave, fingerprint record, loyalty oath, payroll change, or
6 appointment action or any additional transactions as the
7 department may deem appropriate.

8 ~~(b) It is the responsibility of the employing agency~~
9 ~~to maintain these records and all other records and reports~~
10 ~~prescribed in applicable rules on a current basis.~~

11 (b)(c) The department shall develop a uniform
12 performance appraisal system for employees and positions in
13 the Selected Exempt Service covered by a collective bargaining
14 agreement. Each employing agency shall develop a performance
15 appraisal system for all other employees and positions in the
16 Selected Exempt System. Such agency system shall take into
17 consideration individual and organizational efficiency,
18 productivity, and effectiveness.

19 (c)(d) The employing agency must maintain, on a
20 current basis, all records and reports required by applicable
21 rules. The department shall periodically audit employing
22 agency records to determine compliance with the provisions of
23 this part and the rules of the department.

24 ~~(e) The department shall develop a program of~~
25 ~~affirmative and positive actions that will ensure full~~
26 ~~utilization of women and minorities in Selected Exempt Service~~
27 ~~positions.~~

28 Section 69. Section 110.606, Florida Statutes, is
29 renumbered as section 109.606, Florida Statutes, and paragraph
30 (c) of subsection (2) of said section is amended to read:

31 109.606 ~~110.606~~ Selected Exempt Service; data

1 collection.--

2 (2) The data required by this section shall include:

3 (c) In addition, as needed, ~~the data shall include:~~

4 1. A pricing analysis based on a market survey of
5 positions comparable to those included in the Selected Exempt
6 Service and recommendations with respect to whether, and to
7 what extent, revisions to the salary ranges for the Selected
8 Exempt Service classifications should be implemented.

9 2. An analysis of actual salary levels for each
10 classification within the Selected Exempt Service, indicating
11 the mean salary for each classification within the Selected
12 Exempt Service and the deviation from such means with respect
13 to each agency's salary practice in each classification;
14 reviewing the duties and responsibilities in relation to the
15 incumbents' salary levels, credentials, skills, knowledge, and
16 abilities; and discussing whether the salary practices
17 reflected thereby indicate interagency salary inequities among
18 positions within the Selected Exempt Service.

19 Section 70. (1) Sections 109.105 through 109.191,
20 Florida Statutes, are designated as part I of chapter 109,
21 Florida Statutes, to be entitled "General State Employment
22 Provisions."

23 (2) Sections 109.201 through 109.240, Florida
24 Statutes, are designated as part II of chapter 109, Florida
25 Statutes, to be entitled "Career Service System."

26 (3) Sections 109.401 through 109.406, Florida
27 Statutes, are designated as part III of chapter 109, Florida
28 Statutes, to be entitled "Senior Management Service System."

29 (4) Sections 109.501 through 109.504, Florida
30 Statutes, are designated as part IV of chapter 109, Florida
31 Statutes, to be entitled "Volunteers."

1 (5) Sections 109.601 through 109.606, Florida
2 Statutes, are designated as part V of chapter 109, Florida
3 Statutes, to be entitled "Selected Exempt Service System."

4 Section 71. Paragraph (c) of subsection (2) and
5 paragraph (d) of subsection (3) of section 20.171, Florida
6 Statutes, are amended to read:

7 20.171 Department of Labor and Employment
8 Security.--There is created a Department of Labor and
9 Employment Security. The department shall operate its programs
10 in a decentralized fashion.

11 (2)

12 (c) The managers of all divisions and offices
13 specifically named in this section and the directors of the
14 five field offices are exempt from part II of chapter 109 ~~110~~
15 and are included in the Senior Management Service in
16 accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~. No other
17 assistant secretaries or senior management positions at or
18 above the division level, except those established in chapter
19 109 ~~110~~, may be created without specific legislative
20 authority.

21 (3)

22 (d)1. The secretary shall appoint a comptroller who
23 shall be responsible to the assistant secretary. This
24 position is exempt from part II of chapter 109 ~~110~~.

25 2. The comptroller is the chief financial officer of
26 the department and shall be a proven, effective administrator
27 who, by a combination of education and experience, clearly
28 possesses a broad knowledge of the administrative, financial,
29 and technical aspects of a complex cost-accounting system.
30 The comptroller must also have a working knowledge of
31 generally accepted accounting principles. At a minimum, the

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1 comptroller shall hold an active license to practice public
2 accounting in this state pursuant to chapter 473 or in any
3 other state. In addition to the requirements of the Florida
4 Fiscal Accounting Management Information System Act, the
5 comptroller is responsible for the development, maintenance,
6 and modification of an accounting system which will in a
7 timely manner accurately reflect the revenues and expenditures
8 of the department and which shall include a cost-accounting
9 system to properly identify, segregate, allocate, and report
10 department costs. The comptroller shall supervise and direct
11 preparation of a detailed 36-month forecast of cash and
12 expenditures and shall be responsible for managing cash and
13 determining cash requirements. The comptroller shall review
14 all comparative cost studies which examine the
15 cost-effectiveness and feasibility of contracting for services
16 and operations performed by the department. The review shall
17 state that the study was prepared in accordance with generally
18 accepted cost-accounting standards applied in a consistent
19 manner using valid and accurate cost data.

20 3. The comptroller may be required to give bond as
21 provided by s. 20.05(4).

22 4. The department shall, by rule or internal
23 management memoranda as required by chapter 120, provide for
24 the maintenance by the comptroller of financial records and
25 accounts of the department as will afford a full and complete
26 check against the improper payment of bills and provide a
27 system for the prompt payment of the just obligations of the
28 department, which records must at all times disclose:

29 a. The several appropriations available for the use of
30 the department.

31 b. The specific amounts of each such appropriation

1 budgeted by the department for each improvement or purpose.

2 c. The apportionment or division of all such
3 appropriations among the several counties and field offices,
4 when such apportionment or division is made.

5 d. The amount or portion of each such apportionment
6 against general contractual and other obligations of the
7 department.

8 e. The amount expended and still to be expended in
9 connection with each contractual and each other obligation of
10 the department.

11 f. The expense and operating costs of the various
12 activities of the department.

13 g. The receipts accruing to the department and the
14 distribution thereof.

15 h. The assets, investments, and liabilities of the
16 department.

17 i. The cash requirements of the department for a
18 36-month period.

19 5. The comptroller shall maintain a separate account
20 for each fund administered by the department.

21 6. The comptroller shall perform such other related
22 duties as may be designated by the department.

23 Section 72. Subsection (3) of section 20.18, Florida
24 Statutes, is amended to read:

25 20.18 Department of Community Affairs.--There is
26 created a Department of Community Affairs.

27 (3) Unless otherwise provided by law, the Secretary of
28 Community Affairs shall appoint the directors or executive
29 directors of any commission or council assigned to the
30 department, who shall serve at his or her pleasure as provided
31 for division directors in s. 109.205 ~~110.205~~. The appointment

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1 or termination by the secretary will be done with the advice
2 and consent of the commission or council; and the director or
3 executive director may employ, subject to departmental rules
4 and procedures, such personnel as may be authorized and
5 necessary.

6 Section 73. Subsection (6) of section 20.21, Florida
7 Statutes, is amended to read:

8 20.21 Department of Revenue.--There is created a
9 Department of Revenue.

10 (6) Notwithstanding the provisions of s. 109.123
11 ~~110.123~~, relating to the state group insurance program, the
12 department may pay, or participate in the payment of, premiums
13 for health, accident, and life insurance for its full-time
14 out-of-state employees, pursuant to such rules as it may
15 adopt, and such payments shall be in addition to the regular
16 salaries of such full-time out-of-state employees.

17 Section 74. Paragraph (d) of subsection (1), paragraph
18 (h) of subsection (2), paragraphs (d), (f), (h), and (i) of
19 subsection (3), paragraphs (c) and (d) of subsection (4), and
20 subsection (5) of section 20.23, Florida Statutes, are amended
21 to read:

22 20.23 Department of Transportation.--There is created
23 a Department of Transportation which shall be a decentralized
24 agency.

25 (1)

26 (d) Any secretary appointed after July 5, 1989, and
27 the assistant secretaries shall be exempt from the provisions
28 of part III of chapter 109 ~~110~~ and shall receive compensation
29 commensurate with their qualifications and competitive with
30 compensation for comparable responsibility in the private
31 sector. When the salary of any assistant secretary exceeds

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1 the limits established in part III of chapter 109 ~~110~~, the
2 Governor shall approve said salary.

3 (2)

4 (h) The commission shall appoint an executive director
5 and assistant executive director, who shall serve under the
6 direction, supervision, and control of the commission. The
7 executive director, with the consent of the commission, shall
8 employ such staff as are necessary to perform adequately the
9 functions of the commission, within budgetary limitations.
10 All employees of the commission are exempt from part II of
11 chapter 109 ~~110~~ and shall serve at the pleasure of the
12 commission. The salaries and benefits of all employees of the
13 commission shall be set in accordance with the Selected Exempt
14 Service; provided, however, that the commission shall have
15 complete authority for fixing the salary of the executive
16 director and assistant executive director.

17 (3)

18 (d)1. Policy, program, or operations offices shall be
19 established within the central office for the purposes of:

20 a. Developing policy and procedures and monitoring
21 performance to ensure compliance with these policies and
22 procedures;

23 b. Performing statewide activities which it is more
24 cost-effective to perform in a central location;

25 c. Assessing and ensuring the accuracy of information
26 within the department's financial management information
27 systems; and

28 d. Performing other activities of a statewide nature.

29 2. The following offices are established and shall be
30 headed by a manager, each of whom shall be appointed by and
31 serve at the pleasure of the secretary. The positions shall be

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- 1 classified at a level equal to a division director:
- 2 a. The Office of Administration;
- 3 b. The Office of Policy Planning;
- 4 c. The Office of Design;
- 5 d. The Office of Highway Operations;
- 6 e. The Office of Right-of-Way;
- 7 f. The Office of Toll Operations;
- 8 g. The Office of Information Systems; and
- 9 h. The Office of Motor Carrier Compliance.
- 10 3. Other offices may be established in accordance with
- 11 s. 20.04(7). The heads of such offices are exempt from part II
- 12 of chapter 109 ~~110~~. No office or organization shall be created
- 13 at a level equal to or higher than a division without specific
- 14 legislative authority.
- 15 4. During the construction of a major transportation
- 16 improvement project or as determined by the district
- 17 secretary, the department may provide assistance to a business
- 18 entity significantly impacted by the project if the entity is
- 19 a for-profit entity that has been in business for 3 years
- 20 prior to the beginning of construction and has direct or
- 21 shared access to the transportation project being constructed.
- 22 The assistance program shall be in the form of additional
- 23 guarantees to assist the impacted business entity in receiving
- 24 loans pursuant to Title 13 C.F.R. part 120. However, in no
- 25 instance shall the combined guarantees be greater than 90
- 26 percent of the loan. The department shall adopt rules to
- 27 implement this subparagraph.
- 28 (f)1. Within the central office there is created an
- 29 Office of Management and Budget. The head of the Office of
- 30 Management and Budget is responsible to the Assistant
- 31 Secretary for Finance and Administration and is exempt from

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1 part II of chapter 109 ~~110~~.

2 2. The functions of the Office of Management and
3 Budget include, but are not limited to:

4 a. Preparation of the work program;

5 b. Preparation of the departmental budget; and

6 c. Coordination of related policies and procedures.

7 3. The Office of Management and Budget shall also be
8 responsible for developing uniform implementation and
9 monitoring procedures for all activities performed at the
10 district level involving the budget and the work program.

11 (h)1. The secretary shall appoint an inspector general
12 pursuant to s. 20.055. To comply with recommended professional
13 auditing standards related to independence and objectivity,
14 the inspector general shall be appointed to a position within
15 the Career Service System and may be removed by the secretary
16 with the concurrence of the Transportation Commission. In
17 order to attract and retain an individual who has the proven
18 technical and administrative skills necessary to comply with
19 the requirements of this section, the agency head may appoint
20 the inspector general to a classification level within the
21 Career Service System that is equivalent to that provided for
22 in part III of chapter 109 ~~110~~. The inspector general may be
23 organizationally located within another unit of the department
24 for administrative purposes, but shall function independently
25 and be directly responsible to the secretary pursuant to s.
26 20.055. The duties of the inspector general shall include, but
27 are not restricted to, reviewing, evaluating, and reporting on
28 the policies, plans, procedures, and accounting, financial,
29 and other operations of the department and recommending
30 changes for the improvement thereof, as well as performing
31 audits of contracts and agreements between the department and

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1 private entities or other governmental entities. The inspector
2 general shall give priority to reviewing major parts of the
3 department's accounting system and central office monitoring
4 function to determine whether such systems effectively ensure
5 accountability and compliance with all laws, rules, policies,
6 and procedures applicable to the operation of the department.
7 The inspector general shall also give priority to assessing
8 the department's management information systems as required by
9 s. 282.318. The internal audit function shall use the
10 necessary expertise, in particular, engineering, financial,
11 and property appraising expertise, to independently evaluate
12 the technical aspects of the department's operations. The
13 inspector general shall have access at all times to any
14 personnel, records, data, or other information of the
15 department and shall determine the methods and procedures
16 necessary to carry out his or her duties. The inspector
17 general is responsible for audits of departmental operations
18 and for audits of consultant contracts and agreements, and
19 such audits shall be conducted in accordance with generally
20 accepted governmental auditing standards. The inspector
21 general shall annually perform a sufficient number of audits
22 to determine the efficiency and effectiveness, as well as
23 verify the accuracy of estimates and charges, of contracts
24 executed by the department with private entities and other
25 governmental entities. The inspector general has the sole
26 responsibility for the contents of his or her reports, and a
27 copy of each report containing his or her findings and
28 recommendations shall be furnished directly to the secretary
29 and the commission.

30 2. In addition to the authority and responsibilities
31 herein provided, the inspector general is required to report

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1 to the:

2 a. Secretary whenever the inspector general makes a
3 preliminary determination that particularly serious or
4 flagrant problems, abuses, or deficiencies relating to the
5 administration of programs and operations of the department
6 have occurred. The secretary shall review and assess the
7 correctness of the preliminary determination by the inspector
8 general. If the preliminary determination is substantiated,
9 the secretary shall submit such report to the appropriate
10 committees of the Legislature within 7 calendar days, together
11 with a report by the secretary containing any comments deemed
12 appropriate. Nothing in this section shall be construed to
13 authorize the public disclosure of information which is
14 specifically prohibited from disclosure by any other provision
15 of law.

16 b. Transportation Commission and the Legislature any
17 actions by the secretary that prohibit the inspector general
18 from initiating, carrying out, or completing any audit after
19 the inspector general has decided to initiate, carry out, or
20 complete such audit. The secretary shall, within 30 days
21 after transmission of the report, set forth in a statement to
22 the Transportation Commission and the Legislature the reasons
23 for his or her actions.

24 (i)1. The secretary shall appoint a comptroller who is
25 responsible to the Assistant Secretary for Finance and
26 Administration. This position is exempt from part II of
27 chapter 109 ~~110~~.

28 2. The comptroller is the chief financial officer of
29 the department and must be a proven, effective administrator
30 who by a combination of education and experience clearly
31 possesses a broad knowledge of the administrative, financial,

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1 and technical aspects of a complex cost-accounting system.
2 The comptroller must also have a working knowledge of
3 generally accepted accounting principles. At a minimum, the
4 comptroller must hold an active license to practice public
5 accounting in Florida pursuant to chapter 473 or an active
6 license to practice public accounting in any other state. In
7 addition to the requirements of the Florida Fiscal Accounting
8 Management Information System Act, the comptroller is
9 responsible for the development, maintenance, and modification
10 of an accounting system that will in a timely manner
11 accurately reflect the revenues and expenditures of the
12 department and that includes a cost-accounting system to
13 properly identify, segregate, allocate, and report department
14 costs. The comptroller shall supervise and direct preparation
15 of a detailed 36-month forecast of cash and expenditures and
16 is responsible for managing cash and determining cash
17 requirements. The comptroller shall review all comparative
18 cost studies that examine the cost-effectiveness and
19 feasibility of contracting for services and operations
20 performed by the department. The review must state that the
21 study was prepared in accordance with generally accepted
22 cost-accounting standards applied in a consistent manner using
23 valid and accurate cost data.

24 3. The department shall by rule or internal management
25 memoranda as required by chapter 120 provide for the
26 maintenance by the comptroller of financial records and
27 accounts of the department as will afford a full and complete
28 check against the improper payment of bills and provide a
29 system for the prompt payment of the just obligations of the
30 department, which records must at all times disclose:

31 a. The several appropriations available for the use of

1 the department;

2 b. The specific amounts of each such appropriation
3 budgeted by the department for each improvement or purpose;

4 c. The apportionment or division of all such
5 appropriations among the several counties and districts, when
6 such apportionment or division is made;

7 d. The amount or portion of each such apportionment
8 against general contractual and other liabilities then
9 created;

10 e. The amount expended and still to be expended in
11 connection with each contractual and other obligation of the
12 department;

13 f. The expense and operating costs of the various
14 activities of the department;

15 g. The receipts accruing to the department and the
16 distribution thereof;

17 h. The assets, investments, and liabilities of the
18 department; and

19 i. The cash requirements of the department for a
20 36-month period.

21 4. The comptroller shall maintain a separate account
22 for each fund administered by the department.

23 5. The comptroller shall perform such other related
24 duties as designated by the department.

25 (4)

26 (c) Each district secretary may appoint a district
27 director for planning and programming, a district director for
28 production, and a district director for operations. These
29 positions are exempt from part II of chapter 109 ~~110~~.

30 (d) Within each district, offices shall be established
31 for managing major functional responsibilities of the

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1 department. The offices may include planning, design,
 2 construction, right-of-way, maintenance, and public
 3 transportation. The heads of these offices shall be exempt
 4 from part II of chapter 109 ~~110~~.

5 (5) Notwithstanding the provisions of s. 109.205
 6 ~~110.205~~, the Department of Management Services is authorized
 7 to exempt positions within the Department of Transportation
 8 which are comparable to positions within the Senior Management
 9 Service pursuant to s. 109.205(2)(i) ~~110.205(2)(i)~~ or
 10 positions which are comparable to positions in the Selected
 11 Exempt Service under s. 109.205(2)(1) ~~110.205(2)(1)~~.

12 Section 75. Subsection (2) of section 20.255, Florida
 13 Statutes, is amended to read:

14 20.255 Department of Environmental Protection.--There
 15 is created a Department of Environmental Protection.

16 (2)(a) There shall be three deputy secretaries who are
 17 to be appointed by and shall serve at the pleasure of the
 18 secretary. The secretary may assign any deputy secretary the
 19 responsibility to supervise, coordinate, and formulate policy
 20 for any division, office, or district. The following special
 21 offices are established and headed by managers, each of whom
 22 is to be appointed by and serve at the pleasure of the
 23 secretary:

- 24 1. Office of Chief of Staff,
- 25 2. Office of General Counsel,
- 26 3. Office of Inspector General,
- 27 4. Office of External Affairs,
- 28 5. Office of Legislative and Government Affairs, and
- 29 6. Office of Greenways and Trails.

30 (b) There shall be six administrative districts
 31 involved in regulatory matters of waste management, water

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1 resource management, wetlands, and air resources, which shall
2 be headed by managers, each of whom is to be appointed by and
3 serve at the pleasure of the secretary. Divisions of the
4 department may have one assistant or two deputy division
5 directors, as required to facilitate effective operation.

6
7 The managers of all divisions and offices specifically named
8 in this section and the directors of the six administrative
9 districts are exempt from part II of chapter 109 ~~110~~ and are
10 included in the Senior Management Service in accordance with
11 s. 109.205(2)(i) ~~110.205(2)(i)~~.

12 Section 76. Paragraph (b) of subsection (3) and
13 paragraph (e) of subsection (6) of section 20.315, Florida
14 Statutes, are amended to read:

15 20.315 Department of Corrections.--There is created a
16 Department of Corrections.

17 (3) SECRETARY OF CORRECTIONS.--The head of the
18 Department of Corrections is the Secretary of Corrections.
19 The secretary is appointed by the Governor, subject to
20 confirmation by the Senate, and shall serve at the pleasure of
21 the Governor. The secretary is responsible for planning,
22 coordinating, and managing the corrections system of the
23 state. The secretary shall ensure that the programs and
24 services of the department are administered in accordance with
25 state and federal laws, rules, and regulations, with
26 established program standards, and consistent with legislative
27 intent. The secretary shall identify the need for and
28 recommend funding for the secure and efficient operation of
29 the state correctional system.

30 (b) The secretary shall appoint a general counsel and
31 an inspector general, who are exempt from part II of chapter

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1 109 ~~110~~ and are included in the Senior Management Service.

2 (6) FLORIDA CORRECTIONS COMMISSION.--

3 (e) The commission shall appoint an executive director
4 and an assistant executive director, who shall serve under the
5 direction, supervision, and control of the commission. The
6 executive director, with the consent of the commission, shall
7 employ such staff as are necessary to perform adequately the
8 functions of the commission, within budgetary limitations. All
9 employees of the commission are exempt from part II of chapter
10 109 ~~110~~ and serve at the pleasure of the commission. The
11 salaries and benefits of all employees of the commission shall
12 be set in accordance with the Selected Exempt Service rules;
13 however, the commission shall have complete authority for
14 fixing the salaries of the executive director and the
15 assistant executive director. The executive director and staff
16 of the Task Force for Review of the Criminal Justice and
17 Corrections System, created under chapter 93-404, Laws of
18 Florida, shall serve as the staff for the commission until the
19 commission hires an executive director.

20 Section 77. Paragraph (d) of subsection (20) of
21 section 24.105, Florida Statutes, is amended to read:

22 24.105 Powers and duties of department.--The
23 department shall:

24 (20) Employ division directors and other staff as may
25 be necessary to carry out the provisions of this act; however:

26 (d) The department shall establish and maintain a
27 personnel program for its employees, including a personnel
28 classification and pay plan which may provide any or all of
29 the benefits provided in the Senior Management Service or
30 Selected Exempt Service. Each officer or employee of the
31 department shall be a member of the Florida Retirement System.

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1 The retirement class of each officer or employee shall be the
2 same as other persons performing comparable functions for
3 other agencies. Employees of the department shall serve at
4 the pleasure of the secretary and shall be subject to
5 suspension, dismissal, reduction in pay, demotion, transfer,
6 or other personnel action at the discretion of the secretary.
7 Such personnel actions are exempt from the provisions of
8 chapter 120. All employees of the department are exempt from
9 the Career Service System provided in chapter 109 ~~110~~ and,
10 notwithstanding the provisions of s. 109.205(5)~~110.205(5)~~,
11 are not included in either the Senior Management Service or
12 the Selected Exempt Service. However, all employees of the
13 department are subject to all standards of conduct adopted by
14 rule for career service and senior management employees
15 pursuant to chapter 109 ~~110~~. In the event of a conflict
16 between standards of conduct applicable to employees of the
17 Department of the Lottery the more restrictive standard shall
18 apply. Interpretations as to the more restrictive standard may
19 be provided by the Commission on Ethics upon request of an
20 advisory opinion pursuant to s. 112.322(3)(a), for purposes of
21 this subsection the opinion shall be considered final action.

22 Section 78. Paragraph (d) of subsection (4) of section
23 24.122, Florida Statutes, is amended to read:

24 24.122 Exemption from taxation; state preemption;
25 inapplicability of other laws.--

26 (4) Any state or local law providing any penalty,
27 disability, restriction, or prohibition for the possession,
28 manufacture, transportation, distribution, advertising, or
29 sale of any lottery ticket, including chapter 849, shall not
30 apply to the tickets of the state lottery operated pursuant to
31 this act; nor shall any such law apply to the possession of a

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1 ticket issued by any other government-operated lottery. In
2 addition, activities of the department under this act are
3 exempt from the provisions of:

4 (d) Section 109.131 ~~110.131~~, relating to other
5 personal services.

6 Section 79. Subsection (1) of section 68.087, Florida
7 Statutes, is amended to read:

8 68.087 Exemptions to civil actions.--

9 (1) No court shall have jurisdiction over an action
10 brought under this act against a member of the Legislature, a
11 member of the judiciary, or a senior executive branch official
12 if the action is based on evidence or information known to the
13 state government when the action was brought. For purposes of
14 this subsection, the term "senior executive branch official"
15 means any person employed in the executive branch of
16 government holding a position in the Senior Management Service
17 as defined in s. 109.402 ~~110.402~~.

18 Section 80. Subsection (3) of section 104.31, Florida
19 Statutes, is amended to read:

20 104.31 Political activities of state, county, and
21 municipal officers and employees.--

22 (3) Nothing contained in this section or in any county
23 or municipal charter shall be deemed to prohibit any public
24 employee from expressing his or her opinions on any candidate
25 or issue or from participating in any political campaign
26 during the employee's off-duty hours, so long as such
27 activities are not in conflict with the provisions of
28 subsection (1) or s. 109.233 ~~110.233~~.

29 Section 81. Subsection (3) of section 106.082, Florida
30 Statutes, is amended to read:

31 106.082 Commissioner of Agriculture candidates;

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1 campaign contribution limits.--

2 (3) No employee of the Department of Agriculture may
3 solicit a campaign contribution for any candidate for the
4 office of Commissioner of Agriculture from any person or
5 business who is licensed, inspected, or otherwise authorized
6 to do business as a food outlet or convenience store pursuant
7 to chapter 500; or any director, officer, lobbyist, or
8 controlling interest of that person; or any political
9 committee or committee of continuous existence that represents
10 that person. For purposes of this section, "employee of the
11 department" means any person employed in the Department of
12 Agriculture holding a position in the Senior Management
13 Service as defined in s. 109.402 ~~110.402~~; any person holding a
14 position in the Selected Exempt Service as defined in s.
15 109.602 ~~110.602~~; any person having authority over food outlet
16 or convenience store regulation, or inspection supervision; or
17 any person, hired on a contractual basis, having the power
18 normally conferred upon such person, by whatever title.

19 Section 82. Subsection (4) of section 106.24, Florida
20 Statutes, is amended to read:

21 106.24 Florida Elections Commission; membership;
22 powers; duties.--

23 (4) The commission shall appoint an executive
24 director, who shall serve under the direction, supervision,
25 and control of the commission. The executive director, with
26 the consent of the commission, shall employ such staff as are
27 necessary to adequately perform the functions of the
28 commission, within budgetary limitations. All employees,
29 except the executive director and attorneys, are subject to
30 part II of chapter 109 ~~110~~. The executive director shall
31 serve at the pleasure of the commission and be subject to part

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1 III of chapter 109 ~~110~~, except that the commission shall have
2 complete authority for setting the executive director's
3 salary. Attorneys employed by the commission shall be subject
4 to part V of chapter 109 ~~110~~.

5 Section 83. Subsection (4) of section 112.044, Florida
6 Statutes, is amended to read:

7 112.044 Public employers, employment agencies, labor
8 organizations; discrimination based on age prohibited;
9 exceptions; remedy.--

10 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
11 the state who is within the Career Service System established
12 by chapter 109 ~~110~~ and who is aggrieved by a violation of this
13 act may appeal to the Public Employees Relations Commission
14 under the conditions and following the procedures prescribed
15 in part II of chapter 447. Any person other than an employee
16 who is within the Career Service System established by chapter
17 109 ~~110~~, or any person employed by the Public Employees
18 Relations Commission, who is aggrieved by a violation of this
19 act may bring a civil action in any court of competent
20 jurisdiction for such legal or equitable relief as will
21 effectuate the purposes of this act.

22 Section 84. Section 112.0805, Florida Statutes, is
23 amended to read:

24 112.0805 Employer notice of insurance eligibility to
25 employees who retire.--Any employer who provides insurance
26 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify
27 those employees who retire of their eligibility to participate
28 in either the same group insurance plan or self-insurance plan
29 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the
30 insurance coverage as provided by this law.

31 Section 85. Paragraph (a) of subsection (9) of section

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1 112.313, Florida Statutes, is amended to read:

2 112.313 Standards of conduct for public officers,
3 employees of agencies, and local government attorneys.--

4 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT
5 FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

6 (a)1. It is the intent of the Legislature to implement
7 by statute the provisions of s. 8(e), Art. II of the State
8 Constitution relating to legislators, statewide elected
9 officers, appointed state officers, and designated public
10 employees.

11 2. As used in this paragraph:

12 a. "Employee" means:

13 (I) Any person employed in the executive or
14 legislative branch of government holding a position in the
15 Senior Management Service as defined in s. 109.402 ~~110.402~~ or
16 any person holding a position in the Selected Exempt Service
17 as defined in s. 109.602 ~~110.602~~ or any person having
18 authority over policy or procurement employed by the
19 Department of the Lottery.

20 (II) The Auditor General, the Sergeant at Arms and
21 Secretary of the Senate, and the Sergeant at Arms and Clerk of
22 the House of Representatives.

23 (III) The executive director of the Legislative
24 Committee on Intergovernmental Relations and the executive
25 director and deputy executive director of the Commission on
26 Ethics.

27 (IV) An executive director, staff director, or deputy
28 staff director of each joint committee, standing committee, or
29 select committee of the Legislature; an executive director,
30 staff director, executive assistant, analyst, or attorney of
31 the Office of the President of the Senate, the Office of the

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1 Speaker of the House of Representatives, the Senate Majority
2 Party Office, Senate Minority Party Office, House Majority
3 Party Office, or House Minority Party Office; or any person,
4 hired on a contractual basis, having the power normally
5 conferred upon such persons, by whatever title.

6 (V) The Chancellor and Vice Chancellors of the State
7 University System; the general counsel to the Board of
8 Regents; and the president, vice presidents, and deans of each
9 state university.

10 (VI) Any person having the power normally conferred
11 upon the positions referenced in this sub-subparagraph.

12 b. "Appointed state officer" means any member of an
13 appointive board, commission, committee, council, or authority
14 of the executive or legislative branch of state government
15 whose powers, jurisdiction, and authority are not solely
16 advisory and include the final determination or adjudication
17 of any personal or property rights, duties, or obligations,
18 other than those relative to its internal operations.

19 c. "State agency" means an entity of the legislative,
20 executive, or judicial branch of state government over which
21 the Legislature exercises plenary budgetary and statutory
22 control.

23 3. No member of the Legislature, appointed state
24 officer, or statewide elected officer shall personally
25 represent another person or entity for compensation before the
26 government body or agency of which the individual was an
27 officer or member for a period of 2 years following vacation
28 of office. No member of the Legislature shall personally
29 represent another person or entity for compensation during his
30 or her term of office before any state agency other than
31 judicial tribunals or in settlement negotiations after the

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1 filing of a lawsuit.

2 4. No agency employee shall personally represent
3 another person or entity for compensation before the agency
4 with which he or she was employed for a period of 2 years
5 following vacation of position, unless employed by another
6 agency of state government.

7 5. Any person violating this paragraph shall be
8 subject to the penalties provided in s. 112.317 and a civil
9 penalty of an amount equal to the compensation which the
10 person receives for the prohibited conduct.

11 6. This paragraph is not applicable to:

12 a. A person employed by the Legislature or other
13 agency prior to July 1, 1989;

14 b. A person who was employed by the Legislature or
15 other agency on July 1, 1989, whether or not the person was a
16 defined employee on July 1, 1989;

17 c. A person who was a defined employee of the State
18 University System or the Public Service Commission who held
19 such employment on December 31, 1994;

20 d. A person who has reached normal retirement age as
21 defined in s. 121.021(29), and who has retired under the
22 provisions of chapter 121 by July 1, 1991; or

23 e. Any appointed state officer whose term of office
24 began before January 1, 1995, unless reappointed to that
25 office on or after January 1, 1995.

26 Section 86. Paragraph (a) of subsection (5) of section
27 112.3189, Florida Statutes, is amended to read:

28 112.3189 Investigative procedures upon receipt of
29 whistle-blower information from certain state employees.--

30 (5)(a) If the Chief Inspector General or agency
31 inspector general under subsection (3) determines that the

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1 information disclosed is the type of information described in
2 s. 112.3187(5), that the source of the information is from a
3 person who is an employee or former employee of, or an
4 applicant for employment with, a state agency, as defined in
5 s. 216.011, and that the information disclosed demonstrates
6 reasonable cause to suspect that an employee or agent of an
7 agency or independent contractor has violated any federal,
8 state, or local law, rule, or regulation, thereby creating a
9 substantial and specific danger to the public's health,
10 safety, or welfare, or has committed an act of gross
11 mismanagement, malfeasance, misfeasance, gross waste of public
12 funds, or gross neglect of duty, the Chief Inspector General
13 or agency inspector general making such determination shall
14 then conduct an investigation, unless the Chief Inspector
15 General or the agency inspector general determines, within 30
16 days after receiving the allegations from the complainant,
17 that such investigation is unnecessary. For purposes of this
18 subsection, the Chief Inspector General or the agency
19 inspector general shall consider the following factors, but is
20 not limited to only the following factors, when deciding
21 whether the investigation is not necessary:

- 22 1. The gravity of the disclosed information compared
23 to the time and expense of an investigation.
- 24 2. The potential for an investigation to yield
25 recommendations that will make state government more efficient
26 and effective.
- 27 3. The benefit to state government to have a final
28 report on the disclosed information.
- 29 4. Whether the alleged whistle-blower information
30 primarily concerns personnel practices that may be
31 investigated under chapter 109 ~~110~~.

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1 5. Whether another agency may be conducting an
2 investigation and whether any investigation under this section
3 could be duplicative.

4 6. The time that has elapsed between the alleged event
5 and the disclosure of the information.

6 Section 87. Subsection (2) of section 112.363, Florida
7 Statutes, is amended to read:

8 112.363 Retiree health insurance subsidy.--

9 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE

10 SUBSIDY.--A person who is retired under a state-administered
11 retirement system, or a beneficiary who is a spouse or
12 financial dependent entitled to receive benefits under a
13 state-administered retirement system, is eligible for health
14 insurance subsidy payments provided under this section; except
15 that pension recipients under ss. 121.40, 238.07(16)(a), and
16 250.22, recipients of health insurance coverage under s.
17 109.1232 ~~110.1232~~, or any other special pension or relief act
18 shall not be eligible for such payments. Payment of the
19 retiree health insurance subsidy shall be made only after
20 coverage for health insurance for the retiree or beneficiary
21 has been certified in writing to the Department of Management
22 Services. Participation in a former employer's group health
23 insurance program is not a requirement for eligibility under
24 this section. However, participants in the Senior Management
25 Service Optional Annuity Program as provided in s. 121.055(6)
26 and the State University System Optional Retirement Program as
27 provided in s. 121.35 shall not receive the retiree health
28 insurance subsidy provided in this section. The employer of
29 such participant shall pay the contributions required in
30 subsection (8) to the annuity program provided in s.
31 121.055(6)(d) or s. 121.35(4)(a), as applicable.

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1 Section 88. Effective July 1, 2001, paragraph (a) of
2 subsection (2) of section 112.363, Florida Statutes, as
3 amended by chapter 2000-169, Laws of Florida, is amended to
4 read:

5 112.363 Retiree health insurance subsidy.--

6 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
7 SUBSIDY.--

8 (a) A person who is retired under a state-administered
9 retirement system, or a beneficiary who is a spouse or
10 financial dependent entitled to receive benefits under a
11 state-administered retirement system, is eligible for health
12 insurance subsidy payments provided under this section; except
13 that pension recipients under ss. 121.40, 238.07(16)(a), and
14 250.22, recipients of health insurance coverage under s.
15 109.1232 ~~110.1232~~, or any other special pension or relief act
16 shall not be eligible for such payments.

17 Section 89. Subsection (38) of section 121.021,
18 Florida Statutes, is amended to read:

19 121.021 Definitions.--The following words and phrases
20 as used in this chapter have the respective meanings set forth
21 unless a different meaning is plainly required by the context:

22 (38) "Continuous service" means creditable service as
23 a member, beginning with the first day of employment with an
24 employer covered under a state-administered retirement system
25 consolidated herein and continuing for as long as the member
26 remains in an employer-employee relationship with an employer
27 covered under this chapter. An absence of 1 calendar month or
28 more from an employer's payroll shall be considered a break in
29 continuous service, except for periods of absence during which
30 an employer-employee relationship continues to exist and such
31 period of absence is creditable under this chapter or under

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1 one of the existing systems consolidated herein. However, a
2 law enforcement officer as defined in s. 121.0515(2)(a) who
3 was a member of a state-administered retirement system under
4 chapter 122 or chapter 321 and who resigned and was
5 subsequently reemployed in a law enforcement position within
6 12 calendar months of such resignation by an employer under
7 such state-administered retirement system shall be deemed to
8 have not experienced a break in service. Further, with respect
9 to a state-employed law enforcement officer who meets the
10 criteria specified in s. 121.0515(2)(a), if the absence from
11 the employer's payroll is the result of a "layoff" as defined
12 in s. 109.203(24)~~110.203(24)~~ or a resignation to run for an
13 elected office that meets the criteria specified in s.
14 121.0515(2)(a), no break in continuous service shall be deemed
15 to have occurred if the member is reemployed as a state law
16 enforcement officer or is elected to an office which meets the
17 criteria specified in s. 121.0515(2)(a) within 12 calendar
18 months after the date of the layoff or resignation,
19 notwithstanding the fact that such period of layoff or
20 resignation is not creditable service under this chapter. A
21 withdrawal of contributions will constitute a break in
22 service. Continuous service also includes past service
23 purchased under this chapter, provided such service is
24 continuous within this definition and the rules established by
25 the administrator. The administrator may establish
26 administrative rules and procedures for applying this
27 definition to creditable service authorized under this
28 chapter. Any correctional officer, as defined in s. 943.10,
29 whose participation in the state-administered retirement
30 system is terminated due to the transfer of a county detention
31 facility through a contractual agreement with a private entity

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1 pursuant to s. 951.062, shall be deemed an employee with
2 continuous service in the Special Risk Class, provided return
3 to employment with the former employer takes place within 3
4 years due to contract termination or the officer is employed
5 by a covered employer in a special risk position within 1 year
6 after his or her initial termination of employment by such
7 transfer of its detention facilities to the private entity.

8 Section 90. Paragraph (b) of subsection (3) of section
9 121.0515, Florida Statutes, is amended to read:

10 121.0515 Special risk membership.--

11 (3) PROCEDURE FOR DESIGNATING.--

12 (b)1. Applying the criteria set forth in this section,
13 the Department of Management Services shall specify which
14 current and newly created classes of positions under the
15 uniform classification plan established pursuant to chapter
16 109 ~~110~~ entitle the incumbents of positions in those classes
17 to membership in the Special Risk Class. Only employees
18 employed in the classes so specified shall be special risk
19 members.

20 2. When a class is not specified by the department as
21 provided in subparagraph 1., the employing agency may petition
22 the State Retirement Commission for approval in accordance
23 with s. 121.23.

24 Section 91. Paragraph (a) of subsection (1) of section
25 121.055, Florida Statutes, is amended to read:

26 121.055 Senior Management Service Class.--There is
27 hereby established a separate class of membership within the
28 Florida Retirement System to be known as the "Senior
29 Management Service Class," which shall become effective
30 February 1, 1987.

31 (1)(a) Participation in the Senior Management Service

1 Class shall be limited to and compulsory for any member of the
 2 Florida Retirement System who holds a position in the Senior
 3 Management Service of the State of Florida, established by
 4 part III of chapter 109 ~~110~~, unless such member elects, within
 5 the time specified herein, to participate in the Senior
 6 Management Service Optional Annuity Program as established in
 7 subsection (6).

8 Section 92. Paragraph (a) of subsection (2) of section
 9 121.35, Florida Statutes, is amended to read:

10 121.35 Optional retirement program for the State
 11 University System.--

12 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
 13 PROGRAM.--

14 (a) Participation in the optional retirement program
 15 provided by this section shall be limited to persons who are
 16 otherwise eligible for membership in the Florida Retirement
 17 System; who are employed or appointed for no less than one
 18 academic year; and who are employed in one of the following
 19 State University System positions:

20 1. Positions classified as instructional and research
 21 faculty which are exempt from the career service under the
 22 provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

23 2. Positions classified as administrative and
 24 professional which are exempt from the career service under
 25 the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

26 3. The Chancellor and the university presidents.

27 Section 93. Subsection (5) of section 215.94, Florida
 28 Statutes, is amended to read:

29 215.94 Designation, duties, and responsibilities of
 30 functional owners.--

31 (5) The Department of Management Services shall be the

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1 functional owner of the Cooperative Personnel Employment
2 Subsystem. The department shall design, implement, and
3 operate the subsystem in accordance with the provisions of ss.
4 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall
5 include, but shall not be limited to, functions for:

6 (a) Maintenance of employee and position data,
7 including funding sources and percentages and salary lapse.
8 The employee data shall include, but not be limited to,
9 information to meet the payroll system requirements of the
10 Department of Banking and Finance and to meet the employee
11 benefit system requirements of the Department of Management
12 Services.

13 (b) Recruitment and examination.

14 (c) Time reporting.

15 (d) Collective bargaining.

16 Section 94. Subsection (2) of section 216.011, Florida
17 Statutes, is amended to read:

18 216.011 Definitions.--

19 (2) For purposes of this chapter, terms related to
20 personnel affairs of the state shall be defined as set forth
21 in s. 109.203 ~~110.203~~.

22 Section 95. Paragraph (a) of subsection (2) of section
23 216.251, Florida Statutes, is amended to read:

24 216.251 Salary appropriations; limitations.--

25 (2)(a) The salary for each position not specifically
26 indicated in the appropriations acts shall be as provided in
27 one of the following subparagraphs:

28 1. Within the classification and pay plans provided
29 for in chapter 109 ~~110~~.

30 2. Within the classification and pay plans established
31 by the Board of Trustees for the Florida School for the Deaf

1 and the Blind of the Department of Education and approved by
2 the State Board of Education for academic and academic
3 administrative personnel.

4 3. Within the classification and pay plan approved and
5 administered by the Board of Regents for those positions in
6 the State University System.

7 4. Within the classification and pay plan approved by
8 the President of the Senate and the Speaker of the House of
9 Representatives, as the case may be, for employees of the
10 Legislature.

11 5. Within the approved classification and pay plan for
12 the judicial branch.

13 6. The salary of all positions not specifically
14 included in this subsection shall be set by the commission or
15 by the Chief Justice for the judicial branch.

16 Section 96. Section 231.381, Florida Statutes, is
17 amended to read:

18 231.381 Transfer of sick leave and annual leave.--In
19 implementing the provisions of ss. 230.23(4)(n) and
20 402.22(1)(d), educational personnel in Department of Children
21 and Family Services residential care facilities who are
22 employed by a district school board may request, and the
23 district school board shall accept, a lump-sum transfer of
24 accumulated sick leave for such personnel to the maximum
25 allowed by policies of the district school board,
26 notwithstanding the provisions of s. 109.122 ~~110.122~~.

27 Educational personnel in Department of Children and Family
28 Services residential care facilities who are employed by a
29 district school board under the provisions of s. 402.22(1)(d)
30 may request, and the district school board shall accept, a
31 lump-sum transfer of accumulated annual leave for each person

1 employed by the district school board in a position in the
2 district eligible to accrue vacation leave under policies of
3 the district school board.

4 Section 97. Paragraph (c) of subsection (1) of section
5 235.217, Florida Statutes, is amended to read:

6 235.217 SMART (Soundly Made, Accountable, Reasonable,
7 and Thrifty) Schools Clearinghouse.--

8 (1)

9 (c) The clearinghouse is assigned to the Department of
10 Management Services for administrative and fiscal
11 accountability purposes, but it shall otherwise function
12 independently of the control and direction of the department,
13 except as otherwise provided in chapters 109 ~~110~~, 255, and 287
14 for agencies of the executive branch.

15 Section 98. Paragraph (f) of subsection (3) of section
16 240.209, Florida Statutes, is amended to read:

17 240.209 Board of Regents; powers and duties.--

18 (3) The board shall:

19 (f) Establish and maintain systemwide personnel
20 programs for all State University System employees, including
21 a systemwide personnel classification and pay plan,
22 notwithstanding provisions of law that grant authority to the
23 Department of Management Services over such programs for state
24 employees. The board shall consult with the legislative
25 appropriations committees regarding any major policy changes
26 related to classification and pay which are in conflict with
27 those policies in effect for career service employees with
28 similar job classifications and responsibilities. The board
29 may adopt rules relating to the appointment, employment, and
30 removal of personnel which delegate its authority to the
31 Chancellor or the universities. The board shall submit, in a

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1 manner prescribed by law, any reports concerning State
2 University System personnel programs as shall be required of
3 the Department of Management Services for other state
4 employees. The Department of Management Services shall retain
5 authority over State University System employees for programs
6 established in ss. 109.116, 109.123, 109.1232, 109.1234, and
7 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~
8 and in chapters 121, 122, and 238. The board shall adopt rules
9 to provide for a coordinated, efficient systemwide program and
10 shall delegate to the universities authority for implementing
11 the program consistent with these coordinating rules so
12 adopted and applicable collective bargaining agreements. The
13 salary rate controls for positions in budgets under the Board
14 of Regents shall separately delineate the general faculty and
15 all other categories.

16 Section 99. Paragraph (a) of subsection (1) of section
17 240.2111, Florida Statutes, is amended to read:

18 240.2111 Employee recognition program.--

19 (1)(a) Notwithstanding the provisions of s. 109.1245
20 ~~110.1245~~, the Board of Regents and each university shall
21 promulgate rules for an employee recognition program which
22 provides for the following components:

23 1. A superior accomplishment component to recognize
24 employees who have contributed outstanding and meritorious
25 service in their fields, including those who have made
26 exceptional contributions to efficiency, economy, or other
27 improvement in State University System operations. No cash
28 award under the superior accomplishment component of the
29 program shall exceed \$1,000, excluding applicable taxes.

30 2. A satisfactory service component to recognize
31 employees who have achieved increments of 5 continuous years

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1 of satisfactory service to the Board of Regents, university,
 2 or state in appreciation and recognition of such service. No
 3 cash award granted under the satisfactory service component
 4 shall exceed \$50, excluding applicable taxes.

5 Section 100. Section 240.507, Florida Statutes, is
 6 amended to read:

7 240.507 Extension personnel; federal health insurance
 8 programs notwithstanding the provisions of s. 109.123
 9 ~~110.123~~.--The Institute of Food and Agricultural Sciences at
 10 the University of Florida is authorized to pay the employer's
 11 share of premiums to the Federal Health Benefits Insurance
 12 Program from its appropriated budget for any cooperative
 13 extension employee of the institute having both state and
 14 federal appointments and participating in the Federal Civil
 15 Service Retirement System.

16 Section 101. Subsection (9) of section 241.002,
 17 Florida Statutes, is amended to read:

18 241.002 Duties of the Department of Education.--The
 19 duties of the Department of Education concerning distance
 20 learning include, but are not limited to, the duty to:

21 (9) Hire appropriate staff which may include a
 22 position that shall be exempt from part II of chapter 109 ~~110~~
 23 and is included in the Senior Management Service in accordance
 24 with s. 109.205 ~~110.205~~.

25
 26 Nothing in ss. 241.001-241.004 shall be construed to abrogate,
 27 supersede, alter, or amend the powers and duties of any state
 28 agency, district school board, community college board of
 29 trustees, the State Board of Community Colleges, or the Board
 30 of Regents.

31 Section 102. Paragraph (b) of subsection (6) of

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1 section 242.331, Florida Statutes, is amended to read:

2 242.331 Florida School for the Deaf and the Blind;
3 board of trustees.--

4 (6) The board of trustees shall:

5 (b) Administer and maintain personnel programs for all
6 employees of the board of trustees and the Florida School for
7 the Deaf and the Blind who shall be state employees, including
8 the personnel classification and pay plan established in
9 accordance with ss. 109.205(2)(d)~~110.205(2)(d)~~and
10 216.251(2)(a)2. for academic and academic administrative
11 personnel, the provisions of chapter 109 ~~110~~, and the
12 provisions of law that grant authority to the Department of
13 Management Services over such programs for state employees.

14 Section 103. Subsection (2) of section 260.0125,
15 Florida Statutes, is amended to read:

16 260.0125 Limitation on liability of private landowners
17 whose property is designated as part of the statewide system
18 of greenways and trails.--

19 (2) Any private landowner who consents to designation
20 of his or her land as part of the statewide system of
21 greenways and trails pursuant to s. 260.016(2)(d) without
22 compensation shall be considered a volunteer, as defined in s.
23 109.501 ~~110.501~~, and shall be covered by state liability
24 protection pursuant to s. 768.28, including s. 768.28(9).

25 Section 104. Paragraph (a) of subsection (4) of
26 section 281.02, Florida Statutes, is amended to read:

27 281.02 Powers and duties of the Department of
28 Management Services, Florida Capitol Police.--The Department
29 of Management Services, Florida Capitol Police, has the
30 following powers and duties:

31 (4) To employ:

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1 (a) Agents who hold certification as police officers
2 in accordance with the minimum standards and qualifications as
3 set forth in s. 943.13 and the provisions of chapter 109 ~~110~~,
4 who shall have the authority to bear arms, make arrests, and
5 apply for arrest warrants; and

6 Section 105. Section 287.175, Florida Statutes, is
7 amended to read:

8 287.175 Penalties.--A violation of this part or a rule
9 adopted hereunder, pursuant to applicable constitutional and
10 statutory procedures, constitutes misuse of public position as
11 defined in s. 112.313(6), and is punishable as provided in s.
12 112.317. The Comptroller shall report incidents of suspected
13 misuse to the Commission on Ethics, and the commission shall
14 investigate possible violations of this part or rules adopted
15 hereunder when reported by the Comptroller, notwithstanding
16 the provisions of s. 112.324. Any violation of this part or a
17 rule adopted hereunder shall be presumed to have been
18 committed with wrongful intent, but such presumption is
19 rebuttable. Nothing in this section is intended to deny
20 rights provided to career service employees by s. 109.227
21 ~~110.227~~.

22 Section 106. Subsection (2) of section 288.708,
23 Florida Statutes, is amended to read:

24 288.708 Executive director; employees.--

25 (2) The executive director and all employees of the
26 board shall be exempt from the provisions of part II of
27 chapter 109 ~~110~~, and the executive director shall be subject
28 to the provisions of part IV of chapter 109 ~~110~~.

29 Section 107. Paragraph (a) of subsection (4) of
30 section 295.07, Florida Statutes, is amended to read:

31 295.07 Preference in appointment and retention.--

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1 (4) The following positions are exempt from this
2 section:

3 (a) Those positions that are exempt from the state
4 Career Service System under s. 109.205(2)~~110.205(2)~~; however,
5 all positions under the University Support Personnel System of
6 the State University System as well as all Career Service
7 System positions under the Florida Community College System
8 and the School for the Deaf and the Blind are included.

9 Section 108. Subsection (3) and paragraph (b) of
10 subsection (4) of section 296.04, Florida Statutes, are
11 amended to read:

12 296.04 Administrator; duties and qualifications;
13 responsibilities.--

14 (3) The administrator shall be a resident of the state
15 at the time of entering into employment in the position. The
16 position shall be assigned to the Selected Exempt Service
17 under part V of chapter 109 ~~110~~. The director shall afford
18 applicants veterans' preference in appointment in accordance
19 with ss. 295.07 and 295.085. In addition, the administrator
20 must have at least a 4-year degree from an accredited
21 university or college and 3 years of administrative experience
22 in a health care facility, or any equivalent combination of
23 experience, training, and education totaling 7 years in work
24 relating to administration of a health care facility.

25 (4)

26 (b) All employees who fill authorized and established
27 positions appropriated for the home shall be state employees.
28 The department shall classify such employees in the manner
29 prescribed in chapter 109 ~~110~~.

30 Section 109. Subsection (1) and paragraph (b) of
31 subsection (4) of section 296.34, Florida Statutes, are

1 amended to read:

2 296.34 Administrator; qualifications, duties, and
3 responsibilities.--

4 (1) The director shall appoint an administrator of the
5 home who shall be the chief executive of the home. The
6 position shall be assigned to the Selected Exempt Service
7 under part V of chapter 109 ~~110~~. The director shall give
8 preference in appointment as provided in ss. 295.07 and
9 295.085 to applicants for the position of administrator.

10 (4)

11 (b) All employees who fill authorized and established
12 positions appropriated for the home shall be state employees.
13 The department shall classify such employees in the manner
14 prescribed in chapter 109 ~~110~~.

15 Section 110. Subsection (5) of section 311.07, Florida
16 Statutes, is amended to read:

17 311.07 Florida seaport transportation and economic
18 development funding.--

19 (5) Any port which receives funding under the program
20 shall institute procedures to ensure that jobs created as a
21 result of the state funding shall be subject to equal
22 opportunity hiring practices in the manner provided in s.
23 109.112 ~~110.112~~.

24 Section 111. Paragraph (c) of subsection (10) of
25 section 339.175, Florida Statutes, is amended to read:

26 339.175 Metropolitan planning organization.--It is the
27 intent of the Legislature to encourage and promote the safe
28 and efficient management, operation, and development of
29 surface transportation systems that will serve the mobility
30 needs of people and freight within and through urbanized areas
31 of this state while minimizing transportation-related fuel

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1 consumption and air pollution. To accomplish these objectives,
2 metropolitan planning organizations, referred to in this
3 section as M.P.O.'s, shall develop, in cooperation with the
4 state and public transit operators, transportation plans and
5 programs for metropolitan areas. The plans and programs for
6 each metropolitan area must provide for the development and
7 integrated management and operation of transportation systems
8 and facilities, including pedestrian walkways and bicycle
9 transportation facilities that will function as an intermodal
10 transportation system for the metropolitan area, based upon
11 the prevailing principles provided in s. 334.046(1). The
12 process for developing such plans and programs shall provide
13 for consideration of all modes of transportation and shall be
14 continuing, cooperative, and comprehensive, to the degree
15 appropriate, based on the complexity of the transportation
16 problems to be addressed.

17 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
18 COUNCIL.--

19 (c) The powers and duties of the Metropolitan Planning
20 Organization Advisory Council are to:

- 21 1. Enter into contracts with individuals, private
22 corporations, and public agencies.
- 23 2. Acquire, own, operate, maintain, sell, or lease
24 personal property essential for the conduct of business.
- 25 3. Accept funds, grants, assistance, gifts, or
26 bequests from private, local, state, or federal sources.
- 27 4. Establish bylaws and adopt rules pursuant to ss.
28 120.536(1) and 120.54 to implement provisions of law
29 conferring powers or duties upon it.
- 30 5. Assist M.P.O.'s in carrying out the urbanized area
31 transportation planning process by serving as the principal

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1 forum for collective policy discussion pursuant to law.

2 6. Serve as a clearinghouse for review and comment by
3 M.P.O.'s on the Florida Transportation Plan and on other
4 issues required to comply with federal or state law in
5 carrying out the urbanized area transportation and systematic
6 planning processes instituted pursuant to s. 339.155.

7 7. Employ an executive director and such other staff
8 as necessary to perform adequately the functions of the
9 council, within budgetary limitations. The executive director
10 and staff are exempt from part II of chapter 109 ~~110~~ and serve
11 at the direction and control of the council. The council is
12 assigned to the Office of the Secretary of the Department of
13 Transportation for fiscal and accountability purposes, but it
14 shall otherwise function independently of the control and
15 direction of the department.

16 8. Adopt an agency strategic plan that provides the
17 priority directions the agency will take to carry out its
18 mission within the context of the state comprehensive plan and
19 any other statutory mandates and directions given to the
20 agency.

21 Section 112. Subsection (4) of section 343.74, Florida
22 Statutes, is amended to read:

23 343.74 Powers and duties.--

24 (4) The authority shall institute procedures to ensure
25 that jobs created as a result of state funding pursuant to
26 this section shall be subject to equal opportunity hiring
27 practices as provided for in s. 109.112 ~~110.112~~.

28 Section 113. Paragraph (e) of subsection (3) of
29 section 381.85, Florida Statutes, is amended to read:

30 381.85 Biomedical and social research.--

31 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL

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1 RESEARCH.--

2 (e) The council shall be staffed by an executive
3 director and a secretary who shall be appointed by the council
4 and who shall be exempt from the provisions of part II of
5 chapter 109 ~~110~~ relating to the Career Service System.

6 Section 114. Section 393.0657, Florida Statutes, is
7 amended to read:

8 393.0657 Persons not required to be refingerprinted or
9 rescreened.--Any provision of law to the contrary
10 notwithstanding, human resource personnel who have been
11 fingerprinted or screened pursuant to chapters 393, 394, 397,
12 402, and 409, and teachers who have been fingerprinted
13 pursuant to chapter 231, who have not been unemployed for more
14 than 90 days thereafter, and who under the penalty of perjury
15 attest to the completion of such fingerprinting or screening
16 and to compliance with the provisions of this section and the
17 standards for good moral character as contained in such
18 provisions as ss. 109.1127(3)~~110.1127(3)~~, 393.0655(1),
19 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be
20 required to be refingerprinted or rescreened in order to
21 comply with any direct service provider screening or
22 fingerprinting requirements.

23 Section 115. Subsection (3) of section 400.19, Florida
24 Statutes, is amended to read:

25 400.19 Right of entry and inspection.--

26 (3) The agency shall every 15 months conduct at least
27 one unannounced inspection to determine compliance by the
28 licensee with statutes, and with rules promulgated under the
29 provisions of those statutes, governing minimum standards of
30 construction, quality and adequacy of care, and rights of
31 residents. The agency shall verify through subsequent

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1 inspection that any deficiency identified during the annual
2 inspection is corrected. However, the agency may verify the
3 correction of a class III deficiency unrelated to resident
4 rights or resident care without reinspecting the facility if
5 adequate written documentation has been received from the
6 facility, which provides assurance that the deficiency has
7 been corrected. The giving or causing to be given of advance
8 notice of such unannounced inspections by an employee of the
9 agency to any unauthorized person shall constitute cause for
10 suspension of not fewer than 5 working days according to the
11 provisions of chapter 109 ~~110~~.

12 Section 116. Subsection (3) of section 400.953,
13 Florida Statutes, is amended to read:

14 400.953 Background screening of home medical equipment
15 provider personnel.--The agency shall require employment
16 screening as provided in chapter 435, using the level 1
17 standards for screening set forth in that chapter, for home
18 medical equipment provider personnel.

19 (3) Proof of compliance with the screening
20 requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.
21 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.
22 464.008, or s. 985.407 or this part must be accepted in lieu
23 of the requirements of this section if the person has been
24 continuously employed in the same type of occupation for which
25 he or she is seeking employment without a breach in service
26 that exceeds 180 days, the proof of compliance is not more
27 than 2 years old, and the person has been screened by the
28 Department of Law Enforcement. An employer or contractor shall
29 directly provide proof of compliance to another employer or
30 contractor, and a potential employer or contractor may not
31 accept any proof of compliance directly from the person

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1 requiring screening. Proof of compliance with the screening
2 requirements of this section shall be provided, upon request,
3 to the person screened by the home medical equipment provider.

4 Section 117. Section 402.3057, Florida Statutes, is
5 amended to read:

6 402.3057 Persons not required to be refingerprinted or
7 rescreened.--Any provision of law to the contrary
8 notwithstanding, human resource personnel who have been
9 fingerprinted or screened pursuant to chapters 393, 394, 397,
10 402, and 409, and teachers and noninstructional personnel who
11 have been fingerprinted pursuant to chapter 231, who have not
12 been unemployed for more than 90 days thereafter, and who
13 under the penalty of perjury attest to the completion of such
14 fingerprinting or screening and to compliance with the
15 provisions of this section and the standards for good moral
16 character as contained in such provisions as ss. 109.1127(3)
17 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
18 409.175(4), shall not be required to be refingerprinted or
19 rescreened in order to comply with any caretaker screening or
20 fingerprinting requirements.

21 Section 118. Subsection (4) of section 402.55, Florida
22 Statutes, is amended to read:

23 402.55 Management fellows program.--

24 (4) Notwithstanding the provisions of chapter 109 ~~110~~,
25 the departments may grant special pay increases to management
26 fellows upon successful completion of the program.

27 Section 119. Subsection (2) of section 402.731,
28 Florida Statutes, is amended to read:

29 402.731 Department of Children and Family Services
30 certification programs for employees and service providers;
31 employment provisions for transition to community-based

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1 care.--

2 (2) The department shall develop and implement
3 employment programs to attract and retain competent staff to
4 support and facilitate the transition to privatized
5 community-based care. Such employment programs shall include
6 lump-sum bonuses, salary incentives, relocation allowances, or
7 severance pay. The department shall also contract for the
8 delivery or administration of outplacement services. The
9 department shall establish time-limited exempt positions as
10 provided in s. 109.205(2)(h)~~110.205(2)(h)~~, in accordance with
11 the authority provided in s. 216.262(1)(c)1. Employees
12 appointed to fill such exempt positions shall have the same
13 salaries and benefits as career service employees.

14 Section 120. Section 409.1757, Florida Statutes, is
15 amended to read:

16 409.1757 Persons not required to be refingerprinted or
17 rescreened.--Any provision of law to the contrary
18 notwithstanding, human resource personnel who have been
19 fingerprinted or screened pursuant to chapters 393, 394, 397,
20 402, and this chapter, and teachers who have been
21 fingerprinted pursuant to chapter 231, who have not been
22 unemployed for more than 90 days thereafter, and who under the
23 penalty of perjury attest to the completion of such
24 fingerprinting or screening and to compliance with the
25 provisions of this section and the standards for good moral
26 character as contained in such provisions as ss. 109.1127(3)
27 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
28 409.175(4), shall not be required to be refingerprinted or
29 rescreened in order to comply with any caretaker screening or
30 fingerprinting requirements.

31 Section 121. Paragraph (o) of subsection (1) of

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1 section 440.102, Florida Statutes, is amended to read:

2 440.102 Drug-free workplace program requirements.--The
3 following provisions apply to a drug-free workplace program
4 implemented pursuant to law or to rules adopted by the Agency
5 for Health Care Administration:

6 (1) DEFINITIONS.--Except where the context otherwise
7 requires, as used in this act:

8 (o) "Safety-sensitive position" means, with respect to
9 a public employer, a position in which a drug impairment
10 constitutes an immediate and direct threat to public health or
11 safety, such as a position that requires the employee to carry
12 a firearm, perform life-threatening procedures, work with
13 confidential information or documents pertaining to criminal
14 investigations, or work with controlled substances; a position
15 subject to s. 109.1127 ~~110.1127~~; or a position in which a
16 momentary lapse in attention could result in injury or death
17 to another person.

18 Section 122. Paragraph (a) of subsection (3) of
19 section 440.4416, Florida Statutes, is amended to read:

20 440.4416 Workers' Compensation Oversight Board.--

21 (3) EXECUTIVE DIRECTOR; EXPENSES.--

22 (a) The board shall appoint an executive director to
23 direct and supervisethe administrative affairs and general
24 management of the board who shall be subject to the provisions
25 of part IV of chapter 109 ~~110~~. The executive director may
26 employ persons and obtain technical assistance as authorized
27 by the board and shall attend all meetings of the board. Board
28 employees shall be exempt from part II of chapter 109 ~~110~~.

29 Section 123. Subsection (4) of section 443.171,
30 Florida Statutes, is amended to read:

31 443.171 Division and commission; powers and duties;

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1 rules; advisory council; records and reports; proceedings;
2 state-federal cooperation.--

3 (4) PERSONNEL.--Subject to chapter 109 ~~110~~ and the
4 other provisions of this chapter, the division is authorized
5 to appoint, fix the compensation of, and prescribe the duties
6 and powers of such employees, accountants, attorneys, experts,
7 and other persons as may be necessary in the performance of
8 its duties under this chapter. The division may delegate to
9 any such person such power and authority as it deems
10 reasonable and proper for the effective administration of this
11 chapter and may in its discretion bond any person handling
12 moneys or signing checks hereunder; the cost of such bonds
13 shall be paid from the Employment Security Administration
14 Trust Fund.

15 Section 124. Paragraph (a) of subsection (9) of
16 section 447.207, Florida Statutes, is amended to read:

17 447.207 Commission; powers and duties.--

18 (9) Pursuant to s. 447.208, the commission or its
19 designated agent shall hear appeals, and enter such orders as
20 it deems appropriate, arising out of:

21 (a) Section 109.124 ~~110.124~~, relating to termination
22 or transfer of State Career Service System employees aged 65
23 or older.

24 Section 125. Paragraph (a) of subsection (2) of
25 section 456.048, Florida Statutes, is amended to read:

26 456.048 Financial responsibility requirements for
27 certain health care practitioners.--

28 (2) The board or department may grant exemptions upon
29 application by practitioners meeting any of the following
30 criteria:

31 (a) Any person licensed under chapter 457, chapter

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1 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who
2 practices exclusively as an officer, employee, or agent of the
3 Federal Government or of the state or its agencies or its
4 subdivisions. For the purposes of this subsection, an agent
5 of the state, its agencies, or its subdivisions is a person
6 who is eligible for coverage under any self-insurance or
7 insurance program authorized by the provisions of s.
8 768.28(15) or who is a volunteer under s. 109.501(1)
9 ~~110.501(1)~~.

10 Section 126. Subsection (3) of section 471.038,
11 Florida Statutes, is amended to read:

12 471.038 Florida Engineers Management Corporation.--

13 (3) The Florida Engineers Management Corporation is
14 created to provide administrative, investigative, and
15 prosecutorial services to the board in accordance with the
16 provisions of chapter 455 and this chapter. The management
17 corporation may hire staff as necessary to carry out its
18 functions. Such staff are not public employees for the
19 purposes of chapter 109 ~~110~~ or chapter 112, except that the
20 board of directors and the staff are subject to the provisions
21 of s. 112.061. The provisions of s. 768.28 apply to the
22 management corporation, which is deemed to be a corporation
23 primarily acting as an instrumentality of the state, but which
24 is not an agency within the meaning of s. 20.03(11). The
25 management corporation shall:

26 (a) Be a Florida corporation not for profit,
27 incorporated under the provisions of chapter 617.

28 (b) Provide administrative, investigative, and
29 prosecutorial services to the board in accordance with the
30 provisions of chapter 455, this chapter, and the contract
31 required by this section.

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1 (c) Receive, hold, and administer property and make
2 only prudent expenditures directly related to the
3 responsibilities of the board, and in accordance with the
4 contract required by this section.

5 (d) Be approved by the board and the department to
6 operate for the benefit of the board and in the best interest
7 of the state.

8 (e) Operate under a fiscal year that begins on July 1
9 of each year and ends on June 30 of the following year.

10 (f) Have a seven-member board of directors, five of
11 whom are to be appointed by the board and must be registrants
12 regulated by the board and two of whom are to be appointed by
13 the secretary and must be laypersons not regulated by the
14 board. All initial appointments shall expire on October 31,
15 2000. Current members may be appointed to one additional term
16 that complies with the provisions of this paragraph. Two
17 members shall be appointed for 2 years, three members shall be
18 appointed for 3 years, and two members shall be appointed for
19 4 years. One layperson shall be appointed to a 3-year term and
20 one layperson shall be appointed to a 4-year term. Thereafter,
21 all appointments shall be for 4-year terms. No new member
22 shall serve more than two consecutive terms. Failure to attend
23 three consecutive meetings shall be deemed a resignation from
24 the board, and the vacancy shall be filled by a new
25 appointment.

26 (g) Select its officers in accordance with its bylaws.
27 The members of the board of directors may be removed by the
28 board, with the concurrence of the department, for the same
29 reasons that a board member may be removed.

30 (h) Use a portion of the interest derived from the
31 management corporation account to offset the costs associated

1 with the use of credit cards for payment of fees by applicants
2 or licensees.

3 (i) Operate under an annual written contract with the
4 department which is approved by the board. The contract must
5 provide for, but is not limited to:

6 1. Approval of the articles of incorporation and
7 bylaws of the management corporation by the department and the
8 board.

9 2. Submission by the management corporation of an
10 annual budget that complies with board rules for approval by
11 the board and the department.

12 3. Annual certification by the board and the
13 department that the management corporation is complying with
14 the terms of the contract in a manner consistent with the
15 goals and purposes of the board and in the best interest of
16 the state. This certification must be reported in the board's
17 minutes. The contract must also provide for methods and
18 mechanisms to resolve any situation in which the certification
19 process determines noncompliance.

20 4. Employment by the department of a contract
21 administrator to actively supervise the administrative,
22 investigative, and prosecutorial activities of the management
23 corporation to ensure compliance with the contract and the
24 provisions of chapter 455 and this chapter and to act as a
25 liaison for the department, the board, and the management
26 corporation to ensure the effective operation of the
27 management corporation.

28 5. Funding of the management corporation through
29 appropriations allocated to the regulation of professional
30 engineers from the Professional Regulation Trust Fund.

31 6. The reversion to the board, or the state if the

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1 board ceases to exist, of moneys, records, data, and property
2 held in trust by the management corporation for the benefit of
3 the board, if the management corporation is no longer approved
4 to operate for the board or the board ceases to exist. All
5 records and data in a computerized database shall be returned
6 to the department in a form that is compatible with the
7 computerized database of the department.

8 7. The securing and maintaining by the management
9 corporation, during the term of the contract and for all acts
10 performed during the term of the contract, of all liability
11 insurance coverages in an amount to be approved by the
12 department to defend, indemnify, and hold harmless the
13 management corporation and its officers and employees, the
14 department and its employees, and the state against all claims
15 arising from state and federal laws. Such insurance coverage
16 must be with insurers qualified and doing business in the
17 state. The management corporation must provide proof of
18 insurance to the department. The department and its employees
19 and the state are exempt from and are not liable for any sum
20 of money which represents a deductible, which sums shall be
21 the sole responsibility of the management corporation.
22 Violation of this subparagraph shall be grounds for
23 terminating the contract.

24 8. Payment by the management corporation, out of its
25 allocated budget, to the department of all costs of
26 representation by the board counsel, including salary and
27 benefits, travel, and any other compensation traditionally
28 paid by the department to other board counsels.

29 9. Payment by the management corporation, out of its
30 allocated budget, to the department of all costs incurred by
31 the management corporation or the board for the Division of

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1 Administrative Hearings of the Department of Management
2 Services and any other cost for utilization of these state
3 services.

4 10. Payment by the management corporation, out of its
5 allocated budget, to the department of all costs associated
6 with the contract administrator of the department, including
7 salary and benefits, travel, and other related costs
8 traditionally paid to state employees.

9 (j) Provide for an annual financial and compliance
10 audit of its financial accounts and records by an independent
11 certified public accountant in accordance with generally
12 accepted auditing standards. The annual audit report shall
13 include a detailed supplemental schedule of expenditures for
14 each expenditure category and a management letter. The annual
15 audit report must be submitted to the board, the department,
16 and the Auditor General for review. The Auditor General may,
17 pursuant to his or her own authority or at the direction of
18 the Legislative Auditing Committee, conduct an audit of the
19 corporation.

20 (k) Provide for persons charged with the
21 responsibility of receiving and depositing fee and fine
22 revenues to have a faithful performance bond in such an amount
23 and according to such terms as shall be determined in the
24 contract.

25 (l) Submit to the secretary, the board, and the
26 Legislature, on or before January 1 of each year, a report on
27 the status of the corporation which includes, but is not
28 limited to, information concerning the programs and funds that
29 have been transferred to the corporation. The report must
30 include: the number of license applications received; the
31 number approved and denied and the number of licenses issued;

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1 the number of examinations administered and the number of
2 applicants who passed or failed the examination; the number of
3 complaints received; the number determined to be legally
4 sufficient; the number dismissed; the number determined to
5 have probable cause; the number of administrative complaints
6 issued and the status of the complaints; and the number and
7 nature of disciplinary actions taken by the board.

8 (m) Develop, with the department, performance
9 standards and measurable outcomes for the board to adopt by
10 rule in order to facilitate efficient and cost-effective
11 regulation.

12 Section 127. Subsection (3) of section 509.036,
13 Florida Statutes, is amended to read:

14 509.036 Public food service inspector
15 standardization.--

16 (3) The division and its agent shall adopt rules in
17 accordance with the provisions of chapter 120 to provide for
18 disciplinary action in cases of inspector negligence. An
19 inspector may be subject to suspension or dismissal for cause
20 as set forth in s. 109.227 ~~110.227~~.

21 Section 128. Effective July 1, 2001, subsection (3) of
22 section 509.036, Florida Statutes, as amended by this act, is
23 amended to read:

24 509.036 Public food service inspector
25 standardization.--

26 (3) The division and its agent shall adopt rules in
27 accordance with the provisions of chapter 120 to provide for
28 disciplinary action in cases of inspector negligence. An
29 inspector may be subject to suspension or dismissal for
30 reasonable cause as set forth in s. 109.227.

31 Section 129. Subsection (1) of section 570.073,

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1 Florida Statutes, is amended to read:

2 570.073 Department of Agriculture and Consumer
3 Services, law enforcement officers.--

4 (1) The commissioner may create an Office of
5 Agricultural Law Enforcement under the supervision of a senior
6 manager exempt under s. 109.205 ~~110.205~~ in the Senior
7 Management Service. The commissioner may designate law
8 enforcement officers, as necessary, to enforce any criminal
9 law or conduct any criminal investigation relating to any
10 matter over which the department has jurisdiction or which
11 occurs on property owned, managed, or occupied by the
12 department. Those matters include laws relating to:

13 (a) Domesticated animals, including livestock,
14 poultry, aquaculture products, and other wild or domesticated
15 animals or animal products.

16 (b) Farms, farm equipment, livery tack, citrus or
17 citrus products, or horticultural products.

18 (c) Trespass, littering, forests, forest fires, and
19 open burning.

20 (d) Damage to or theft of forest products.

21 (e) Enforcement of a marketing order.

22 (f) Protection of consumers.

23 (g) Civil traffic offenses provided for in chapters
24 316, 320, and 322, subject to the provisions of chapter 318,
25 relating to any matter over which the department has
26 jurisdiction or committed on property owned, managed, or
27 occupied by the department.

28 (h) The use of alcohol or drugs which occurs on
29 property owned, managed, or occupied by the department.

30 (i) Any emergency situation in which the life, limb,
31 or property of any person is placed in immediate and serious

1 danger.

2 (j) Any crime incidental to or related to paragraphs
3 (a)-(i).

4 Section 130. Section 570.074, Florida Statutes, is
5 amended to read:

6 570.074 Department of Agriculture and Consumer
7 Services; water policy coordination.--The commissioner may
8 create an Office of Water Coordination under the supervision
9 of a senior manager exempt under s. 109.205 ~~110.205~~ in the
10 Senior Management Service. The commissioner may designate the
11 bureaus and positions in the various organizational divisions
12 of the department that report to this office relating to any
13 matter over which the department has jurisdiction in matters
14 relating to water policy affecting agriculture, application of
15 such policies, and coordination of such matters with state and
16 federal agencies.

17 Section 131. Subsection (6) of section 624.307,
18 Florida Statutes, is amended to read:

19 624.307 General powers; duties.--

20 (6) The department may employ actuaries who shall be
21 at-will employees and who shall serve at the pleasure of the
22 Insurance Commissioner. Actuaries employed pursuant to this
23 paragraph shall be members of the Society of Actuaries or the
24 Casualty Actuarial Society and shall be exempt from the Career
25 Service System established under chapter 109 ~~110~~. The
26 salaries of the actuaries employed pursuant to this paragraph
27 by the department shall be set in accordance with s.
28 216.251(2)(a)5. and shall be set at levels which are
29 commensurate with salary levels paid to actuaries by the
30 insurance industry.

31 Section 132. Subsection (4) of section 627.0623,

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1 Florida Statutes, is amended to read:

2 627.0623 Restrictions on expenditures and
3 solicitations of insurers and affiliates.--

4 (4) No employee of the department may solicit a
5 campaign contribution for the Treasurer or any candidate for
6 the office of Treasurer from any insurer, affiliate, or
7 officer of an insurer or affiliate, or any political committee
8 or committee of continuous existence that represents such
9 insurer, affiliate, or officer. For purposes of this section,
10 "employee of the department" means any person employed in the
11 Department of Insurance or the Treasurer's office holding a
12 position in the Senior Management Service as defined in s.
13 109.402 ~~110.402~~; any person holding a position in the Selected
14 Exempt Service as defined in s. 109.602 ~~110.602~~; any person
15 having authority over insurance policy, regulation, or
16 supervision; or any person hired on a contractual basis,
17 having the power normally conferred upon such person, by
18 whatever title.

19 Section 133. Paragraph (h) of subsection (4) of
20 section 627.6488, Florida Statutes, is amended to read:

21 627.6488 Florida Comprehensive Health Association.--

22 (4) The association shall:

23 (h) Contract with preferred provider organizations and
24 health maintenance organizations giving due consideration to
25 the preferred provider organizations and health maintenance
26 organizations which have contracted with the state group
27 health insurance program pursuant to s. 109.123 ~~110.123~~. If
28 cost-effective and available in the county where the
29 policyholder resides, the board, upon application or renewal
30 of a policy, shall place a high-risk individual, as
31 established under s. 627.6498(4)(a)4., with the plan case

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1 manager who shall determine the most cost-effective quality
2 care system or health care provider and shall place the
3 individual in such system or with such health care provider.
4 If cost-effective and available in the county where the
5 policyholder resides, the board, with the consent of the
6 policyholder, may place a low-risk or medium-risk individual,
7 as established under s. 627.6498(4)(a)4., with the plan case
8 manager who may determine the most cost-effective quality care
9 system or health care provider and shall place the individual
10 in such system or with such health care provider. Prior to and
11 during the implementation of case management, the plan case
12 manager shall obtain input from the policyholder, parent, or
13 guardian.

14 Section 134. Paragraph (a) of subsection (1) of
15 section 627.649, Florida Statutes, is amended to read:

16 627.649 Administrator.--

17 (1) The board shall select an administrator, through a
18 competitive bidding process, to administer the plan. The
19 board shall evaluate bids submitted under this subsection
20 based on criteria established by the board, which criteria
21 shall include:

22 (a) The administrator's proven ability to handle large
23 group accident and health insurance, and due consideration
24 shall be given to any administrator who has acted as a
25 third-party administrator for the state group health insurance
26 program pursuant to s. 109.123 ~~110.123~~.

27 Section 135. Paragraph (a) of subsection (2) and
28 subsection (3) of section 627.6498, Florida Statutes, are
29 amended to read:

30 627.6498 Minimum benefits coverage; exclusions;
31 premiums; deductibles.--

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1 (2) BENEFITS.--

2 (a) The plan shall offer major medical expense
3 coverage similar to that provided by the state group health
4 insurance program as defined in s. 109.123 ~~110.123~~ except as
5 specified in subsection (3) to every eligible person who is
6 not eligible for Medicare. Major medical expense coverage
7 offered under the plan shall pay an eligible person's covered
8 expenses, subject to limits on the deductible and coinsurance
9 payments authorized under subsection (4), up to a lifetime
10 limit of \$500,000 per covered individual. The maximum limit
11 under this paragraph shall not be altered by the board, and no
12 actuarially equivalent benefit may be substituted by the
13 board.

14 (3) COVERED EXPENSES.--The coverage to be issued by
15 the association shall be patterned after the state group
16 health insurance program as defined in s. 109.123 ~~110.123~~,
17 including its benefits, exclusions, and other limitations,
18 except as otherwise provided in this act. The plan may cover
19 the cost of experimental drugs which have been approved for
20 use by the Food and Drug Administration on an experimental
21 basis if the cost is less than the usual and customary
22 treatment. Such coverage shall only apply to those insureds
23 who are in the case management system upon the approval of the
24 insured, the case manager, and the board.

25 Section 136. Subsection (4) of section 627.6617,
26 Florida Statutes, is amended to read:

27 627.6617 Coverage for home health care services.--

28 (4) The provisions of this section shall not apply to
29 a multiple-employer welfare arrangement as defined in s.
30 624.437(1) and in the State Health Plan as provided in s.
31 109.123 ~~110.123~~.

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1 Section 137. Subsection (3) of section 655.019,
2 Florida Statutes, is amended to read:

3 655.019 Campaign contributions; limitations.--
4 (3) No employee of the department may solicit a
5 campaign contribution for the Comptroller or any candidate for
6 the office of the Comptroller from any person who is licensed
7 or otherwise authorized to do business by the department or
8 who has an application pending for licensure or other
9 authorization to do business pending with the department, or
10 any director, officer, employee, agent, retained legal
11 counsel, lobbyist, or partner or affiliate of that person or
12 any political committee or committee of continuous existence
13 that represents that person. For purposes of this section,
14 "employee of the department" means any person employed in the
15 department or the Comptroller's office holding a position in
16 the Senior Management Service as defined in s. 109.402
17 ~~110.402~~; any person holding a position in the Selected Exempt
18 Service as defined in s. 109.602 ~~110.602~~; any person having
19 authority over institution policy, regulation, or supervision;
20 or any person hired on a contractual basis, having the power
21 normally conferred upon such person, by whatever title.

22 Section 138. Paragraph (a) of subsection (4) of
23 section 943.0585, Florida Statutes, is amended to read:

24 943.0585 Court-ordered expunction of criminal history
25 records.--The courts of this state have jurisdiction over
26 their own procedures, including the maintenance, expunction,
27 and correction of judicial records containing criminal history
28 information to the extent such procedures are not inconsistent
29 with the conditions, responsibilities, and duties established
30 by this section. Any court of competent jurisdiction may
31 order a criminal justice agency to expunge the criminal

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1 history record of a minor or an adult who complies with the
2 requirements of this section. The court shall not order a
3 criminal justice agency to expunge a criminal history record
4 until the person seeking to expunge a criminal history record
5 has applied for and received a certificate of eligibility for
6 expunction pursuant to subsection (2). A criminal history
7 record that relates to a violation of chapter 794, s. 800.04,
8 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
9 violation enumerated in s. 907.041 may not be expunged,
10 without regard to whether adjudication was withheld, if the
11 defendant was found guilty of or pled guilty or nolo
12 contendere to the offense, or if the defendant, as a minor,
13 was found to have committed, or pled guilty or nolo contendere
14 to committing, the offense as a delinquent act. The court may
15 only order expunction of a criminal history record pertaining
16 to one arrest or one incident of alleged criminal activity,
17 except as provided in this section. The court may, at its sole
18 discretion, order the expunction of a criminal history record
19 pertaining to more than one arrest if the additional arrests
20 directly relate to the original arrest. If the court intends
21 to order the expunction of records pertaining to such
22 additional arrests, such intent must be specified in the
23 order. A criminal justice agency may not expunge any record
24 pertaining to such additional arrests if the order to expunge
25 does not articulate the intention of the court to expunge a
26 record pertaining to more than one arrest. This section does
27 not prevent the court from ordering the expunction of only a
28 portion of a criminal history record pertaining to one arrest
29 or one incident of alleged criminal activity. Notwithstanding
30 any law to the contrary, a criminal justice agency may comply
31 with laws, court orders, and official requests of other

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1 jurisdictions relating to expunction, correction, or
2 confidential handling of criminal history records or
3 information derived therefrom. This section does not confer
4 any right to the expunction of any criminal history record,
5 and any request for expunction of a criminal history record
6 may be denied at the sole discretion of the court.

7 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
8 criminal history record of a minor or an adult which is
9 ordered expunged by a court of competent jurisdiction pursuant
10 to this section must be physically destroyed or obliterated by
11 any criminal justice agency having custody of such record;
12 except that any criminal history record in the custody of the
13 department must be retained in all cases. A criminal history
14 record ordered expunged that is retained by the department is
15 confidential and exempt from the provisions of s. 119.07(1)
16 and s. 24(a), Art. I of the State Constitution and not
17 available to any person or entity except upon order of a court
18 of competent jurisdiction. A criminal justice agency may
19 retain a notation indicating compliance with an order to
20 expunge.

21 (a) The person who is the subject of a criminal
22 history record that is expunged under this section or under
23 other provisions of law, including former s. 893.14, former s.
24 901.33, and former s. 943.058, may lawfully deny or fail to
25 acknowledge the arrests covered by the expunged record, except
26 when the subject of the record:

- 27 1. Is a candidate for employment with a criminal
28 justice agency;
- 29 2. Is a defendant in a criminal prosecution;
- 30 3. Concurrently or subsequently petitions for relief
31 under this section or s. 943.059;

- 1 4. Is a candidate for admission to The Florida Bar;
- 2 5. Is seeking to be employed or licensed by or to
- 3 contract with the Department of Children and Family Services
- 4 or the Department of Juvenile Justice or to be employed or
- 5 used by such contractor or licensee in a sensitive position
- 6 having direct contact with children, the developmentally
- 7 disabled, the aged, or the elderly as provided in s.
- 8 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
- 9 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
- 10 415.102(4), s. 985.407, or chapter 400; or
- 11 6. Is seeking to be employed or licensed by the Office
- 12 of Teacher Education, Certification, Staff Development, and
- 13 Professional Practices of the Department of Education, any
- 14 district school board, or any local governmental entity that
- 15 licenses child care facilities.

16 Section 139. Paragraph (a) of subsection (4) of

17 section 943.059, Florida Statutes, is amended to read:

18 943.059 Court-ordered sealing of criminal history

19 records.--The courts of this state shall continue to have

20 jurisdiction over their own procedures, including the

21 maintenance, sealing, and correction of judicial records

22 containing criminal history information to the extent such

23 procedures are not inconsistent with the conditions,

24 responsibilities, and duties established by this section. Any

25 court of competent jurisdiction may order a criminal justice

26 agency to seal the criminal history record of a minor or an

27 adult who complies with the requirements of this section. The

28 court shall not order a criminal justice agency to seal a

29 criminal history record until the person seeking to seal a

30 criminal history record has applied for and received a

31 certificate of eligibility for sealing pursuant to subsection

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1 (2). A criminal history record that relates to a violation of
2 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,
3 s. 893.135, or a violation enumerated in s. 907.041 may not be
4 sealed, without regard to whether adjudication was withheld,
5 if the defendant was found guilty of or pled guilty or nolo
6 contendere to the offense, or if the defendant, as a minor,
7 was found to have committed or pled guilty or nolo contendere
8 to committing the offense as a delinquent act. The court may
9 only order sealing of a criminal history record pertaining to
10 one arrest or one incident of alleged criminal activity,
11 except as provided in this section. The court may, at its sole
12 discretion, order the sealing of a criminal history record
13 pertaining to more than one arrest if the additional arrests
14 directly relate to the original arrest. If the court intends
15 to order the sealing of records pertaining to such additional
16 arrests, such intent must be specified in the order. A
17 criminal justice agency may not seal any record pertaining to
18 such additional arrests if the order to seal does not
19 articulate the intention of the court to seal records
20 pertaining to more than one arrest. This section does not
21 prevent the court from ordering the sealing of only a portion
22 of a criminal history record pertaining to one arrest or one
23 incident of alleged criminal activity. Notwithstanding any law
24 to the contrary, a criminal justice agency may comply with
25 laws, court orders, and official requests of other
26 jurisdictions relating to sealing, correction, or confidential
27 handling of criminal history records or information derived
28 therefrom. This section does not confer any right to the
29 sealing of any criminal history record, and any request for
30 sealing a criminal history record may be denied at the sole
31 discretion of the court.

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1 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
2 criminal history record of a minor or an adult which is
3 ordered sealed by a court of competent jurisdiction pursuant
4 to this section is confidential and exempt from the provisions
5 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
6 and is available only to the person who is the subject of the
7 record, to the subject's attorney, to criminal justice
8 agencies for their respective criminal justice purposes, or to
9 those entities set forth in subparagraphs (a)1., 4., 5., and
10 6. for their respective licensing and employment purposes.

11 (a) The subject of a criminal history record sealed
12 under this section or under other provisions of law, including
13 former s. 893.14, former s. 901.33, and former s. 943.058, may
14 lawfully deny or fail to acknowledge the arrests covered by
15 the sealed record, except when the subject of the record:

- 16 1. Is a candidate for employment with a criminal
17 justice agency;
- 18 2. Is a defendant in a criminal prosecution;
- 19 3. Concurrently or subsequently petitions for relief
20 under this section or s. 943.0585;
- 21 4. Is a candidate for admission to The Florida Bar;
- 22 5. Is seeking to be employed or licensed by or to
23 contract with the Department of Children and Family Services
24 or the Department of Juvenile Justice or to be employed or
25 used by such contractor or licensee in a sensitive position
26 having direct contact with children, the developmentally
27 disabled, the aged, or the elderly as provided in s.
28 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
29 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
30 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
31 6. Is seeking to be employed or licensed by the Office

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1 of Teacher Education, Certification, Staff Development, and
2 Professional Practices of the Department of Education, any
3 district school board, or any local governmental entity which
4 licenses child care facilities.

5 Section 140. Subsection (4) of section 943.22, Florida
6 Statutes, is amended to read:

7 943.22 Salary incentive program for full-time
8 officers.--

9 (4) No individual filling a position in the Senior
10 Management Service as defined in s. 109.402 ~~110.402~~ is
11 eligible to participate in the salary incentive program
12 authorized by this section.

13 Section 141. Paragraph (c) of subsection (3) of
14 section 944.35, Florida Statutes, is amended to read:

15 944.35 Authorized use of force; malicious battery and
16 sexual misconduct prohibited; reporting required; penalties.--

17 (3)

18 (c) Notwithstanding prosecution, any violation of the
19 provisions of this subsection, as determined by the Public
20 Employees Relations Commission, shall constitute sufficient
21 cause under s. 109.227 ~~110.227~~ for dismissal from employment
22 with the department, and such person shall not again be
23 employed in any capacity in connection with the correctional
24 system.

25 Section 142. Subsection (2) of section 945.043,
26 Florida Statutes, is amended to read:

27 945.043 Department-operated day care services.--

28 (2) The department is exempt from the requirements of
29 s. 109.151 ~~110.151~~.

30 Section 143. Subsection (6) of section 957.03, Florida
31 Statutes, is amended to read:

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1 957.03 Correctional Privatization Commission.--
2 (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The
3 commission shall be a separate budget entity, and the
4 executive director shall be its chief administrative officer.
5 The Department of Management Services shall provide
6 administrative support and service to the commission to the
7 extent requested by the executive director. The commission and
8 its staff are not subject to control, supervision, or
9 direction by the Department of Management Services in any
10 manner, including, but not limited to, personnel, purchasing,
11 and budgetary matters, except to the extent as provided in
12 chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the
13 executive branch. The executive director may designate a
14 maximum of two policymaking or managerial positions as being
15 exempt from the Career Service System. These two positions may
16 be provided for as members of the Senior Management Service.

17 Section 144. Subsection (2) of section 985.04, Florida
18 Statutes, is amended to read:

19 985.04 Oaths; records; confidential information.--
20 (2) Records maintained by the Department of Juvenile
21 Justice, including copies of records maintained by the court,
22 which pertain to a child found to have committed a delinquent
23 act which, if committed by an adult, would be a crime
24 specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457,
25 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed
26 pursuant to this section, except in cases of the death of the
27 child. Such records, however, shall be sealed by the court for
28 use only in meeting the screening requirements for personnel
29 in s. 402.3055 and the other sections cited above, or pursuant
30 to departmental rule; however, current criminal history
31 information must be obtained from the Department of Law

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1 Enforcement in accordance with s. 943.053. The information
2 shall be released to those persons specified in the above
3 cited sections for the purposes of complying with those
4 sections. The court may punish by contempt any person who
5 releases or uses the records for any unauthorized purpose.

6 Section 145. Paragraph (e) of subsection (4) of
7 section 985.05, Florida Statutes, is amended to read:

8 985.05 Court records.--

9 (4) A court record of proceedings under this part is
10 not admissible in evidence in any other civil or criminal
11 proceeding, except that:

12 (e) Records of proceedings under this part may be used
13 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,
14 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
15 409.176, and 985.407.

16 Section 146. Paragraph (b) of subsection (1) of
17 section 985.4045, Florida Statutes, is amended to read:

18 985.4045 Sexual misconduct prohibited; reporting
19 required; penalties.--

20 (1)

21 (b) Notwithstanding prosecution, any violation of this
22 subsection, as determined by the Public Employees Relations
23 Commission, constitutes sufficient cause under s. 109.227
24 ~~110.227~~ for dismissal from employment with the department, and
25 such person may not again be employed in any capacity in
26 connection with the juvenile justice system.

27 Section 147. Paragraph (c) of subsection (1) of
28 section 216.262, Florida Statutes, is amended to read:

29 216.262 Authorized positions.--

30 (1)

31 (c)1. The Executive Office of the Governor, under such

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1 procedures and qualifications as it deems appropriate, shall,
2 upon agency request, delegate to any state agency authority to
3 add and delete authorized positions or transfer authorized
4 positions from one budget entity to another budget entity
5 within the same division, and may approve additions and
6 deletions of authorized positions or transfers of authorized
7 positions within the state agency when such changes would
8 enable the agency to administer more effectively its
9 authorized and approved programs. The additions or deletions
10 must be consistent with the intent of the approved operating
11 budget, must be consistent with legislative policy and intent,
12 and must not conflict with specific spending policies
13 specified in the General Appropriations Act.

14 2. The Chief Justice of the Supreme Court shall have
15 the authority to establish procedures for the judicial branch
16 to add and delete authorized positions or transfer authorized
17 positions from one budget entity to another budget entity, and
18 to add and delete authorized positions within the same budget
19 entity, when such changes are consistent with legislative
20 policy and intent and do not conflict with spending policies
21 specified in the General Appropriations Act.

22 3.a. A state agency may be eligible for an efficiency
23 award based on changes to authorized positions. To be
24 eligible, the agency must submit an application to the
25 Legislative Budgeting Commission identifying the modification
26 to an approved program resulting in efficiency and cost
27 savings.

28 b. The amount of the efficiency award shall be
29 determined by the Legislative Budgeting Commission but shall
30 not exceed the actual savings of currently appropriated funds.
31 In determining the amount of the award, the Legislative

1 Budgeting Commission shall consider the actual savings for the
2 current year and the annualized savings. The efficiency award
3 may be used for nonrecurring purposes only.

4 c. Each state agency allowed to retain salary
5 appropriations pursuant to this subparagraph shall submit in
6 its next legislative budget request a schedule showing how the
7 agency utilized such funds.

8 Section 148. Effective January 1, 2002, section
9 447.201, Florida Statutes, is amended to read:

10 447.201 Statement of policy.--~~It is declared that~~ The
11 public policy of this ~~the~~ state, and the purpose of this part,
12 is to provide statutory implementation of s. 6, Art. I of the
13 State Constitution, with respect to public employees; to
14 promote harmonious and cooperative relationships between
15 government and its employees, both collectively and
16 individually; and to protect the public by assuring, at all
17 times, the orderly and uninterrupted operations and functions
18 of government. ~~It is the intent of the Legislature that~~
19 Nothing herein shall be construed either to encourage or
20 discourage organization of public employees. This state's
21 public policy is ~~These policies are~~ best effectuated by:

22 (1) Granting to public employees the right of
23 organization and representation;

24 (2) Requiring the state, local governments, and other
25 political subdivisions to negotiate with bargaining agents
26 duly certified to represent public employees;

27 (3) Creating the Office of Employee Relations and
28 establishing a voluntary binding arbitration procedure ~~Public~~
29 ~~Employees Relations Commission~~ to assist in resolving disputes
30 between public employees and public employers; and

31 (4) Recognizing the constitutional prohibition against

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1 strikes by public employees and providing remedies for
2 violations of such prohibition.

3 Section 149. Effective January 1, 2002, subsections
4 (1) and (2), paragraph (d) of subsection (3), and subsections
5 (4), (8), (12), and (17) of section 447.203, Florida Statutes,
6 are amended, and, effective July 1, 2001, subsections (19) and
7 (20) are added to said section, to read:

8 447.203 Definitions.--As used in this part:

9 (1)(a) "Office" means the Office of Employee Relations
10 within the Department of Management Services.

11 (b) "Commission" means the Public Employees Relations
12 Commission created by s. 447.205.

13 (2) "Public employer" or "employer" means the state or
14 any county, municipality, or special district or any
15 subdivision or agency thereof which the office commission
16 determines has sufficient legal distinctiveness properly to
17 carry out the functions of a public employer. With respect to
18 all public employees determined by the office commission as
19 properly belonging to a statewide bargaining unit composed of
20 State Career Service System employees or Selected Professional
21 Service employees, the Governor shall be deemed to be the
22 public employer; and the Board of Regents shall be deemed to
23 be the public employer with respect to all public employees
24 within the State University System as provided in s.
25 240.209(3)(f), except that such employees shall have the
26 right, in elections to be conducted at each university by the
27 office commission pursuant to its rules, to elect not to
28 participate in collective bargaining. In the event that a
29 majority of such voting employees at any university elect not
30 to participate in collective bargaining, they shall be removed
31 from the applicable Board of Regents bargaining unit. If,

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1 thereafter, by election conducted by the office ~~commission~~
2 pursuant to its rules, a majority of such voting employees
3 elect to participate in collective bargaining, they shall be
4 included again in the applicable Board of Regents bargaining
5 unit for such purpose. The board of trustees of a community
6 college shall be deemed to be the public employer with respect
7 to all employees of the community college. The district school
8 board shall be deemed to be the public employer with respect
9 to all employees of the school district. The Board of
10 Trustees of the Florida School for the Deaf and the Blind
11 shall be deemed to be the public employer with respect to the
12 academic and academic administrative personnel of the Florida
13 School for the Deaf and the Blind. The Governor shall be
14 deemed to be the public employer with respect to all employees
15 in the Correctional Education Program of the Department of
16 Corrections established pursuant to s. 944.801.

17 (3) "Public employee" means any person employed by a
18 public employer except:

19 (d) Those persons who are designated by the office
20 ~~commission~~ as managerial or confidential employees pursuant to
21 criteria contained herein.

22 (4) "Managerial employees" are those employees who:

23 (a) Perform jobs that are not of a routine, clerical,
24 or ministerial nature and require the exercise of independent
25 judgment in the performance of such jobs and to whom one or
26 more of the following applies:

27 1. They formulate or assist in formulating policies
28 which are applicable to bargaining unit employees.

29 2. They may reasonably be required on behalf of the
30 employer to assist in the preparation for the conduct of
31 collective bargaining negotiations.

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1 3. They have a role in the administration of
2 agreements resulting from collective bargaining negotiations.

3 4. They have a significant role in personnel
4 administration.

5 5. They have a significant role in employee relations.

6 6. They are included in the definition of
7 administrative personnel contained in s. 228.041(10).

8 7. They have a significant role in the preparation or
9 administration of budgets for any public agency or institution
10 or subdivision thereof.

11 (b) Serve as police chiefs, fire chiefs, or directors
12 of public safety of any police, fire, or public safety
13 department. Other police officers, as defined in s. 943.10(1),
14 and firefighters, as defined in s. 633.30(1), may be
15 determined by the office commission to be managerial employees
16 of such departments. In making such determinations, the
17 office commission shall consider, in addition to the criteria
18 established in paragraph (a), the paramilitary organizational
19 structure of the department involved.

20
21 However, in determining whether an individual is a managerial
22 employee pursuant to either paragraph (a) or paragraph (b),
23 above, the office commission may consider historic
24 relationships of the employee to the public employer and to
25 coemployees.

26 (8) "Bargaining unit" means either that unit
27 determined by the office commission, that unit determined
28 through local regulations promulgated pursuant to s. 447.603,
29 or that unit determined by the public employer and the public
30 employee organization and approved by the office commission to
31 be appropriate for the purposes of collective bargaining.

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1 However, no bargaining unit shall be defined as appropriate
2 which includes employees of two employers that are not
3 departments or divisions of the state, a county, a
4 municipality, or other political entity.

5 (12) "Bargaining agent" means the employee
6 organization which has been certified by the office ~~commission~~
7 as representing the employees in the bargaining unit, as
8 provided in s. 447.307, or its representative.

9 (17) "Good faith bargaining" means ~~shall mean~~, but is
10 not ~~be~~ limited to, the willingness of both parties to meet at
11 reasonable times and places, as mutually agreed upon, in order
12 to discuss issues which are proper subjects of bargaining,
13 with the intent of reaching a common accord. It shall include
14 an obligation for both parties to participate actively in the
15 negotiations with an open mind and a sincere desire, as well
16 as making a sincere effort, to resolve differences and come to
17 an agreement. In determining whether a party failed to
18 bargain in good faith, the office ~~commission~~ shall consider
19 the total conduct of the parties during negotiations as well
20 as the specific incidents of alleged bad faith. Incidents
21 indicative of bad faith shall include, but not be limited to,
22 the following occurrences:

23 (a) Failure to meet at reasonable times and places
24 with representatives of the other party for the purpose of
25 negotiations.

26 (b) Placing unreasonable restrictions on the other
27 party as a prerequisite to meeting.

28 (c) Failure to discuss bargainable issues.

29 (d) Refusing, upon reasonable written request, to
30 provide public information, excluding work products as defined
31 in s. 447.605.

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1 (e) Refusing to negotiate because of an unwanted
2 person on the opposing negotiating team.

3 (f) Negotiating directly with employees rather than
4 with their certified bargaining agent.

5 (g) Refusing to reduce a total agreement to writing.

6 (19) "Firefighter" means a firefighter certified under
7 chapter 633.

8 (20) "Law enforcement or correctional officer" means a
9 law enforcement officer, special agent, correctional officer,
10 correctional probation officer, or institutional security
11 specialist required to be certified under chapter 943.

12 Section 150. Effective June 30, 2002, paragraph (b) of
13 subsection (1) and paragraph (h) of subsection (3) of section
14 447.203, Florida Statutes, and section 447.205, Florida
15 Statutes, are repealed.

16 Section 151. Section 447.204, Florida Statutes, is
17 created to read:

18 447.204 Office of Employee Relations.--

19 (1)(a) There is created within the Department of
20 Management Services the Office of Employee Relations,
21 hereinafter referred to as the "office." The Governor shall
22 appoint an executive director of the office. The executive
23 director shall serve at the pleasure of and report to the
24 Governor. The executive director must be a member in good
25 standing of The Florida Bar, have a minimum of 5 years of
26 legal experience, and be knowledgeable regarding and have a
27 background in the laws regarding state employees, the Career
28 Service System, employee bargaining units, and collective
29 bargaining. In no event shall the executive director be a
30 person who, on account of previous vocation, employment, or
31 affiliation, is or has been classified as a representative of

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1 employers, employees, or employee organizations. The executive
2 director shall serve on a full-time basis, and shall
3 personally, or through a representative of the office, carry
4 out the purposes and functions of the office in accordance
5 with state and federal law. The executive director shall be
6 responsible for the administrative functions of the office,
7 including the executive board. The executive director shall
8 make all planning, personnel, and budgeting decisions with
9 regard to the office, except that such decisions shall be made
10 in consultation with the board members with regard to their
11 duties and responsibilities. The executive director shall be
12 solely responsible for handling unfair labor practice
13 disputes, registration and recognition of bargaining units,
14 decertification of bargaining units, unit clarification, and
15 elections, as well as any other duty or responsibility
16 statutorily required by the office. The executive director, or
17 the executive director's designee, shall be responsible for
18 establishing and implementing a training and education program
19 for all the office's employees with regard to their duties and
20 responsibilities, procedural requirements, and applicable law,
21 as appropriate for each employee's position.

22 (b) There is created within the office a three-member
23 executive board. Effective January 1, 2002, the three
24 commissioners of the Public Employees Relations Commission are
25 transferred to the office and shall constitute the executive
26 board. Each board member's term shall expire on the same date
27 as that member's current term as commissioner. Thereafter, the
28 Governor shall appoint each board member, subject to
29 confirmation by the Senate, from persons representative of the
30 public and known for their objective and independent judgment,
31 who shall not be employed by, or hold any commission with, any

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1 governmental unit in the state or any employee organization,
2 as defined in this part, while on the board. In no event shall
3 more than one appointee be a person who, on account of
4 previous vocation, employment, or affiliation, is or has been
5 classified as a representative of employers; and in no event
6 shall more than one such appointee be a person who, on account
7 of previous vocation, employment, or affiliation, is or has
8 been classified as a representative of employees or employee
9 organizations. The board members shall devote full time to
10 board duties and shall not engage in any other business,
11 vocation, or employment while in such office. Every term of
12 office shall be for 4 years. Nothing in this section prohibits
13 an executive board member from serving multiple terms. In the
14 event a vacancy occurs prior to the expiration of a term of
15 office, the Governor shall appoint another person to serve on
16 the board for the unexpired term of that office. The executive
17 board shall implement the voluntary binding arbitration
18 program which is set forth in s. 109.240 and shall perform the
19 duties required of the office with regard to resolution of
20 impasses as described in s. 447.403.

21 (2) The executive director shall employ a general
22 counsel and an administrative assistant to meet immediate
23 staffing needs. The executive director, general counsel, and
24 administrative assistant shall be paid annual salaries to be
25 fixed by law. Such salaries shall be paid in equal monthly
26 installments. The executive director, general counsel, and
27 administrative assistant shall be reimbursed for necessary
28 travel expenses, as provided in s. 112.061. Effective December
29 1, 2001, the executive director shall have the authority to
30 employ such personnel as is necessary to carry out the duties
31 and responsibilities of the office. These personnel shall be

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1 paid annual salaries fixed by law, in equal monthly
2 installments, and such personnel shall be reimbursed for
3 necessary travel expenses as provided in s. 112.061.

4 (3) The office, in the performance of its powers and
5 duties under this part, shall not be subject to control,
6 supervision, or direction of the Department of Management
7 Services. The office shall be a separate budget entity within
8 the department's legislative budget request.

9 (4) The Department of Management Services shall
10 provide the necessary office space, furniture, equipment, and
11 supplies necessary for the startup of the office. The
12 department shall further provide administrative support and
13 service to the office to the extent requested by the executive
14 director within the available resources of the department. The
15 executive director may request the assistance of the Inspector
16 General of the Department of Management Services in providing
17 auditing services, and the Office of General Counsel of the
18 department may provide assistance in rulemaking and other
19 matters as needed to assist the office.

20 (5) The office shall make such expenditures, including
21 expenditures for personal services and rent at the seat of
22 government and elsewhere, for law books, books of reference,
23 periodicals, furniture, equipment, and supplies, and for
24 printing and binding, as may be necessary in exercising its
25 authority and powers and carrying out its duties and
26 responsibilities. All such expenditures by the office shall be
27 allowed and paid upon the presentation of itemized vouchers
28 therefor approved by the executive director.

29 (6) The office may charge for copies of records and
30 documents as provided for in s. 119.07.

31 (7) The office shall maintain and keep open during

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1 reasonable business hours an office at which its public
2 records shall be kept. The office may conduct hearings at any
3 place within the state.

4 (8) The office shall have a seal for authentication of
5 its orders and proceedings, upon which shall be inscribed the
6 words "State of Florida--Office of Employee Relations--Seal"
7 and which shall be judicially noticed.

8 (9) The office is expressly authorized to provide by
9 rule for, and to destroy, obsolete records of the office.

10 (10) Any hearing held or oral argument heard by the
11 office pursuant to chapter 120 or this chapter shall be open
12 to the public.

13 (11) Any hearing held by the office under this part
14 shall be conducted in accordance with the provisions of ss.
15 120.569 and 120.57 by an employee of the office, or a person
16 designated by the executive director, who is a member in good
17 standing of The Florida Bar.

18 Section 152. Effective January 1, 2002, section
19 447.207, Florida Statutes, as amended by this act, is amended
20 to read:

21 447.207 Office of Employee Relations ~~Commission~~;
22 powers and duties.--

23 (1) The Office of Employee Relations ~~commission~~ shall,
24 in accordance with chapter 120, adopt, promulgate, amend, or
25 rescind such rules and regulations as it deems necessary and
26 administratively feasible to carry out the provisions of this
27 part.

28 (2) To accomplish the objectives and carry out the
29 duties prescribed by this part, the office ~~commission~~ may
30 preserve and enforce order during any proceeding; issue
31 subpoenas for, administer oaths or affirmations to, and compel

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1 the attendance and testimony of witnesses; or issue subpoenas
2 for, and compel the production of, books, papers, records,
3 documents, and other evidence. However, in the absence of
4 extraordinary circumstances, no subpoena shall issue which
5 commands the attendance or testimony of any office
6 ~~commissioner or any commission~~ employee at an office a
7 ~~commission~~ proceeding with respect to the performance of
8 official or assigned duties, or the production of books,
9 papers, records, or documents of the office commission which
10 have been prepared during the performance of such duties.

11 (3) If any person:

12 (a) Misbehaves during a proceeding or so near the
13 place thereof as to obstruct the same;

14 (b) Neglects to produce, after having been ordered to
15 do so, any pertinent book, paper, record, or document; or

16 (c) Refuses or fails to appear after having been
17 subpoenaed or, upon appearing, refuses to take oath or
18 affirmation as a witness or, after having taken the oath,
19 refuses to be examined according to law,
20

21 the office commission shall certify the facts to the circuit
22 court having jurisdiction in the county where the proceeding
23 is taking place, which shall thereupon in a summary manner
24 hear the evidence as to the acts complained of and, if the
25 evidence so warrants, punish such person in the same manner
26 and to the same extent as for a contempt committed before the
27 court or commit such person upon the same conditions as if the
28 doing of the forbidden act had occurred with reference to the
29 process or order of, or in the presence of, the court.

30 (4) Any subpoena, notice of hearing, or other process
31 or notice ~~of the commission~~ issued by the office under the

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1 provisions of this part shall be served personally or by
2 certified mail. A return made and verified by the individual
3 making such service and setting forth the manner of such
4 service is proof of service, and a returned post office
5 receipt, when certified mail is used, is proof of service.
6 All process of any court to which application may be made
7 under the provisions of this part shall be served in the
8 county wherein the persons required to be served reside or may
9 be found.

10 (5) The office commission shall adopt rules as to the
11 qualifications of persons who may serve as mediators and
12 special masters and shall maintain lists of such qualified
13 persons who are not employees of the office commission. The
14 office commission may initiate dispute resolution procedures
15 by special masters, pursuant to the provisions of this part.

16 (6) Pursuant to its established procedures, the office
17 commission shall resolve questions and controversies
18 concerning claims for recognition as the bargaining agent for
19 a bargaining unit, determine or approve units appropriate for
20 purposes of collective bargaining, expeditiously process
21 charges of unfair labor practices and violations of s. 447.505
22 by public employees, and resolve such other questions and
23 controversies as it may be authorized herein to undertake.
24 The petitioner, charging party, respondent, and any
25 intervenors shall be the adversary parties before the office
26 commission in any adjudicatory proceeding conducted pursuant
27 to this part. Any office commission statement of general
28 applicability that implements, interprets, or prescribes law
29 or policy, made in the course of adjudicating a case pursuant
30 to s. 447.307 or s. 447.503 shall not constitute a rule within
31 the meaning of s. 120.52.

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1 (7) The office commission shall provide by rule a
2 procedure for the filing and prompt disposition of petitions
3 for a declaratory statement as to the applicability of any
4 statutory provision or any rule or order of the office
5 ~~commission~~. Such rule or rules shall provide for, but not be
6 limited to, an expeditious disposition of petitions posing
7 questions relating to potential unfair labor practices.
8 Office Commission disposition of a petition shall be final
9 agency action and shall not constitute a rule as defined in s.
10 120.52.

11 (8) The office shall provide for voluntary binding
12 arbitration as provided in s. 109.240 with regard to a
13 ~~Pursuant to s. 447.208, the commission or its designated agent~~
14 ~~shall hear appeals arising out of any suspension, reduction in~~
15 ~~pay, transfer, layoff, demotion, or dismissal of any permanent~~
16 ~~employee in the State Career Service System. Written notice~~
17 ~~of a request for voluntary binding arbitration any such appeal~~
18 shall be filed with the office commission within 14 calendar
19 days after the date on which the notice of suspension,
20 reduction in pay, transfer, layoff, demotion, or dismissal is
21 received by the employee.

22 (9) The office shall provide for voluntary binding
23 arbitration as provided in s. 109.240 and, pursuant thereto,
24 shall facilitate the arbitration of appeals ~~Pursuant to s.~~
25 ~~447.208, the commission or its designated agent shall hear~~
26 ~~appeals, and enter such orders as it deems appropriate,~~
27 arising out of:

28 (a) Section 109.124, relating to termination or
29 transfer of State Career Service System employees aged 65 or
30 older.

31 (b) Section 112.044(4), relating to age

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1 discrimination.

2 (c) Section 295.11, relating to reasons for not
3 employing a preferred veteran applicant.

4 (10) Voluntary binding arbitration conducted ~~Appeals~~
5 ~~to the commission~~ pursuant to subsection (8) or subsection (9)
6 shall be the exclusive administrative review of such actions,
7 notwithstanding the provisions of chapter 120. However,
8 nothing in this subsection shall affect an employee's rights
9 pursuant to s. 447.401 or s. 447.503.

10 ~~(11) Decisions issued by the commission pursuant to~~
11 ~~subsection (8) or subsection (9) shall be final agency action~~
12 ~~which shall be reviewable pursuant to s. 447.504.~~

13 Section 153. Notwithstanding the amendments to s.
14 447.207, Florida Statutes, by this act, the authority granted
15 to the Public Employees Relations Commission by s. 407.207(1),
16 (2), (3), and (4), Florida Statutes 2000, shall continue to
17 apply to the commission until June 30, 2002.

18 Section 154. Effective July 1, 2001, section 447.208,
19 Florida Statutes, is amended to read:

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

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

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

4 (2) This section does not prohibit any person from
5 representing himself or herself in proceedings before the
6 commission or from being represented by legal counsel or by
7 any individual who qualifies as a representative pursuant to
8 rules promulgated and adopted by the commission.

9 (3) With respect to hearings relating to demotions,
10 suspensions, or dismissals pursuant to the provisions of this
11 section:

12 (a)1. For an alleged adverse agency action against an
13 employee, except a law enforcement or correctional officer or
14 a firefighter, occurring on or after July 1, 2001, the burden
15 of proof shall be on the employee requesting the appeal to
16 establish by a preponderance of the evidence that the agency
17 head abused his or her discretion in demoting, suspending, or
18 dismissing the employee and that no reasonable cause existed
19 for the alleged adverse action taken by the agency.

20 2.(a) Upon a finding that the adversely affected
21 employee was unable to establish that the agency head abused
22 his or her discretion and was unable to establish that no
23 reasonable just cause existed for the demotion, suspension, or
24 dismissal, the commission shall affirm the demotion,
25 suspension, or dismissal.

26 3.(b) Upon a finding that the adversely affected
27 employee established that the agency head abused his or her
28 discretion and that no reasonable just cause existed did not
29 exist for the demotion, suspension, or dismissal, the
30 commission may order the reinstatement of the employee, with
31 or without back pay.

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1 (b) With regard to a law enforcement or correctional
2 officer or a firefighter:

3 1. Upon a finding that just cause existed for the
4 demotion, suspension, or dismissal, the commission shall
5 affirm the demotion, suspension, or dismissal.

6 2. Upon a finding that just cause did not exist for
7 the demotion, suspension, or dismissal, the commission may
8 order the reinstatement of the law enforcement or correctional
9 officer or firefighter, with or without back pay.

10 ~~3.(c)~~ Upon a finding that just cause for disciplinary
11 action existed, but did not justify the severity of the action
12 taken, the commission may, in its limited discretion, reduce
13 the penalty.

14 ~~(d)~~ The commission is limited in its discretionary
15 reduction of dismissals and suspensions to consider only the
16 following circumstances:

17 ~~a.1.~~ The seriousness of the conduct as it relates to
18 the employee's duties and responsibilities.

19 ~~b.2.~~ Action taken with respect to similar conduct by
20 other employees.

21 ~~c.3.~~ The previous employment record and disciplinary
22 record of the employee.

23 ~~d.4.~~ Extraordinary circumstances beyond the employee's
24 control which temporarily diminished the employee's capacity
25 to effectively perform his or her duties or which
26 substantially contributed to the violation for which
27 punishment is being considered.

28

29 The agency may present evidence to refute the existence of
30 these circumstances.

31 ~~(c)(e)~~ Any order of the commission issued pursuant to

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1 this subsection may include back pay, if applicable, and an
2 amount, to be determined by the commission and paid by the
3 agency, for reasonable attorney's fees, witness fees, and
4 other out-of-pocket expenses incurred during the prosecution
5 of an appeal against an agency in which the commission finds
6 sustains the employee met his or her burden of proof by
7 establishing that the agency head abused his or her discretion
8 and that no reasonable cause existed for the employee's
9 demotion, suspension, or dismissal. In determining the amount
10 of an attorney's fee, the commission shall consider only the
11 number of hours reasonably spent on the appeal, comparing the
12 number of hours spent on similar Career Service System appeals
13 and the reasonable hourly rate charged in the geographic area
14 for similar appeals, but not including litigation over the
15 amount of the attorney's fee. ~~This paragraph applies to future~~
16 ~~and pending cases.~~

17 Section 155. Effective January 1, 2002, sections
18 447.208 and 447.2085, Florida Statutes, are repealed.

19 Section 156. Effective January 1, 2002, subsection (5)
20 of section 447.301, Florida Statutes, is amended to read:

21 447.301 Public employees' rights; organization and
22 representation.--

23 (5) In negotiations over the terms and conditions of
24 service and other matters affecting the working environment of
25 employees, or the learning environment of students, in
26 institutions of higher education, one student representative
27 selected by the council of student body presidents may, at his
28 or her discretion, be present at all negotiating sessions
29 which take place between the Board of Regents and the
30 bargaining agent for an employee bargaining unit. In the case
31 of community colleges, the student government association of

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1 each college shall establish procedures for the selection of,
2 and shall select, a student representative to be present, at
3 his or her discretion, at negotiations between the bargaining
4 agent of the employees and the board of trustees. Each
5 student representative shall have access to all written draft
6 agreements and all other written documents pertaining to
7 negotiations exchanged by the appropriate public employer and
8 the bargaining agent, including a copy of any prepared written
9 transcripts of any negotiating session. Each student
10 representative shall have the right at reasonable times during
11 the negotiating session to comment to the parties and to the
12 public upon the impact of proposed agreements on the
13 educational environment of students. Each student
14 representative shall have the right to be accompanied by
15 alternates or aides, not to exceed a combined total of two in
16 number. Each student representative shall be obligated to
17 participate in good faith during all negotiations and shall be
18 subject to the rules and regulations of the office ~~Public~~
19 ~~Employees Relations Commission~~. The student representatives
20 shall have neither voting nor veto power in any negotiation,
21 action, or agreement. The state or any branch, agency,
22 division, agent, or institution of the state shall not expend
23 any moneys from any source for the payment of reimbursement
24 for travel expenses or per diem to aides, alternates, or
25 student representatives participating in, observing, or
26 contributing to any negotiating sessions between the
27 bargaining parties; however, this limitation does not apply to
28 the use of student activity fees for the reimbursement of
29 travel expenses and per diem to the university student
30 representative, aides, or alternates participating in the
31 aforementioned negotiations between the Board of Regents and

1 the bargaining agent for an employee bargaining unit.

2 Section 157. Effective January 1, 2002, section
3 447.305, Florida Statutes, is amended to read:

4 447.305 Registration of employee organization.--

5 (1) Every employee organization seeking to become a
6 certified bargaining agent for public employees shall register
7 with the office ~~commission~~ pursuant to the procedures set
8 forth in s. 120.60 prior to requesting recognition by a public
9 employer for purposes of collective bargaining and prior to
10 submitting a petition to the office ~~commission~~ requesting
11 certification as an exclusive bargaining agent. Further, if
12 such employee organization is not registered, it may not
13 participate in a representation hearing, participate in a
14 representation election, or be certified as an exclusive
15 bargaining agent. The application for registration required by
16 this section shall be under oath and in such form as the
17 office ~~commission~~ may prescribe and shall include:

18 (a) The name and address of the organization and of
19 any parent organization or organization with which it is
20 affiliated.

21 (b) The names and addresses of the principal officers
22 and all representatives of the organization.

23 (c) The amount of the initiation fee and of the
24 monthly dues which members must pay.

25 (d) The current annual financial statement of the
26 organization.

27 (e) The name of its business agent, if any; if
28 different from the business agent, the name of its local agent
29 for service of process; and the addresses where such person or
30 persons can be reached.

31 (f) A pledge, in a form prescribed by the office

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1 ~~commission~~, that the employee organization will conform to the
2 laws of the state and that it will accept members without
3 regard to age, race, sex, religion, or national origin.

4 (g) A copy of the current constitution and bylaws of
5 the employee organization.

6 (h) A copy of the current constitution and bylaws of
7 the state and national groups with which the employee
8 organization is affiliated or associated. In lieu of this
9 provision, and upon adoption of a rule by the office
10 ~~commission~~, a state or national affiliate or parent
11 organization of any registering labor organization may
12 annually submit a copy of its current constitution and bylaws.

13 (2) A registration granted to an employee organization
14 pursuant to the provisions of this section shall run for 1
15 year from the date of issuance. A registration shall be
16 renewed annually by filing application for renewal under oath
17 with the office ~~commission~~, which application shall reflect
18 any changes in the information provided to the office
19 ~~commission~~ in conjunction with the employee organization's
20 preceding application for registration or previous renewal,
21 whichever is applicable. Each application for renewal of
22 registration shall include a current annual financial report,
23 signed by its president and treasurer or corresponding
24 principal officers, containing the following information in
25 such detail as may be necessary accurately to disclose its
26 financial condition and operations for its preceding fiscal
27 year and in such categories as the office ~~commission~~ may
28 prescribe:

29 (a) Assets and liabilities at the beginning and end of
30 the fiscal year;

31 (b) Receipts of any kind and the sources thereof;

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1 (c) Salary, allowances, and other direct or indirect
2 disbursements, including reimbursed expenses, to each officer
3 and also to each employee who, during such fiscal year,
4 received more than \$10,000 in the aggregate from such employee
5 organization and any other employee organization affiliated
6 with it or with which it is affiliated or which is affiliated
7 with the same national or international employee organization;

8 (d) Direct and indirect loans made to any officer,
9 employee, or member which aggregated more than \$250 during the
10 fiscal year, together with a statement of the purpose,
11 security, if any, and arrangements for repayment; and

12 (e) Direct and indirect loans to any business
13 enterprise, together with a statement of the purpose,
14 security, if any, and arrangements for repayment.

15 (3) A registration fee shall accompany each
16 application filed with the office commission. The amount
17 charged for an application for registration or renewal of
18 registration shall not exceed ~~\$25~~\$15. All such money
19 collected by the office commission shall be deposited in the
20 General Revenue Fund.

21 (4) Notification of registrations and renewals of
22 registration shall be furnished at regular intervals by the
23 office commission to the Department of Labor and Employment
24 Security.

25 (5) Every employee organization shall keep accurate
26 accounts of its income and expenses, which accounts shall be
27 open for inspection at all reasonable times by any member of
28 the organization or by the office commission.

29 Section 158. Effective January 1, 2002, section
30 447.307, Florida Statutes, is amended to read:

31 447.307 Certification of employee organization.--

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1 (1)(a) Any employee organization which is designated
2 or selected by a majority of public employees in an
3 appropriate unit as their representative for purposes of
4 collective bargaining shall request recognition by the public
5 employer. The public employer shall, if satisfied as to the
6 majority status of the employee organization and the
7 appropriateness of the proposed unit, recognize the employee
8 organization as the collective bargaining representative of
9 employees in the designated unit. Upon recognition by a
10 public employer, the employee organization shall immediately
11 petition the office commission for certification. The office
12 commission shall review only the appropriateness of the unit
13 proposed by the employee organization. If the unit is
14 appropriate according to the criteria used in this part, the
15 office commission shall immediately certify the employee
16 organization as the exclusive representative of all employees
17 in the unit. If the unit is inappropriate according to the
18 criteria used in this part, the office commission may dismiss
19 the petition.

20 (b) Whenever a public employer recognizes an employee
21 organization on the basis of majority status and on the basis
22 of appropriateness in accordance with subparagraph (4)(f)5. of
23 this section, the office commission shall, in the absence of
24 inclusion of a prohibited category of employees or violation
25 of s. 447.501, certify the proposed unit.

26 (2) If the public employer refuses to recognize the
27 employee organization, the employee organization may file a
28 petition with the office commission for certification as the
29 bargaining agent for a proposed bargaining unit. The petition
30 shall be accompanied by dated statements signed by at least 30
31 percent of the employees in the proposed unit, indicating that

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1 such employees desire to be represented for purposes of
2 collective bargaining by the petitioning employee
3 organization. Once a petition for certification has been
4 filed by an employee organization, any registered employee
5 organization desiring placement on the ballot in any election
6 to be conducted pursuant to this section may be permitted by
7 the office commission to intervene in the proceeding upon
8 motion accompanied by dated statements signed by at least 10
9 percent of the employees in the proposed unit, indicating that
10 such employees desire to be represented for the purposes of
11 collective bargaining by the moving employee organization.
12 The petitions and dated statements signed by the employees are
13 confidential and exempt from the provisions of s. 119.07(1),
14 except that any employee, employer, or employee organization
15 having sufficient reason to believe any of the employee
16 signatures were obtained by collusion, coercion, intimidation,
17 or misrepresentation or are otherwise invalid shall be given a
18 reasonable opportunity to verify and challenge the signatures
19 appearing on the petition.

20 (3)(a) The office commission or one of its designated
21 agents shall investigate the petition to determine its
22 sufficiency; if it has reasonable cause to believe that the
23 petition is sufficient, the office commission shall provide
24 for an appropriate hearing upon due notice. Such a hearing
25 may be conducted by an agent of the office commission. If the
26 office commission finds the petition to be insufficient, it
27 may dismiss the petition. If the office commission finds upon
28 the record of the hearing that the petition is sufficient, it
29 shall immediately:

30 1. Define the proposed bargaining unit and determine
31 which public employees shall be qualified and entitled to vote

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1 at any election held by the office ~~commission~~.

2 2. Identify the public employer or employers for
3 purposes of collective bargaining with the bargaining agent.

4 3. Order an election by secret ballot, the cost of
5 said election and any required runoff election to be borne
6 equally by the parties, except as the office ~~commission~~ may
7 provide by rule. The office's ~~commission's~~ order assessing
8 costs of an election may be enforced pursuant to the
9 provisions of this part.

10 (b) When an employee organization is selected by a
11 majority of the employees voting in an election, the office
12 ~~commission~~ shall certify the employee organization as the
13 exclusive collective bargaining representative of all
14 employees in the unit. Certification is effective upon the
15 issuance of the final order by the office ~~commission~~ or, if
16 the final order is appealed, at the time the appeal is
17 exhausted or any stay is vacated by the office ~~commission~~ or
18 the court.

19 (c) In any election in which none of the choices on
20 the ballot receives the vote of a majority of the employees
21 voting, a runoff election shall be held according to rules
22 promulgated by the office ~~commission~~.

23 (d) No petition may be filed seeking an election in
24 any proposed or existing appropriate bargaining unit to
25 determine the exclusive bargaining agent within 12 months
26 after the date of an office ~~a commission~~ order verifying a
27 representation election or, if an employee organization
28 prevails, within 12 months after the date of an effective
29 certification covering any of the employees in the proposed or
30 existing bargaining unit. Furthermore, if a valid collective
31 bargaining agreement covering any of the employees in a

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1 proposed unit is in effect, a petition for certification may
2 be filed with the office ~~commission~~ only during the period
3 extending from 150 days to 90 days immediately preceding the
4 expiration date of that agreement, or at any time subsequent
5 to its expiration date but prior to the effective date of any
6 new agreement. The effective date of a collective bargaining
7 agreement means the date of ratification by both parties, if
8 the agreement becomes effective immediately or retroactively;
9 or its actual effective date, if the agreement becomes
10 effective after its ratification date.

11 (4) In defining a proposed bargaining unit, the office
12 ~~commission~~ shall take into consideration:

13 (a) The principles of efficient administration of
14 government.

15 (b) The number of employee organizations with which
16 the employer might have to negotiate.

17 (c) The compatibility of the unit with the joint
18 responsibilities of the public employer and public employees
19 to represent the public.

20 (d) The power of the officials of government at the
21 level of the unit to agree, or make effective recommendations
22 to another administrative authority or to a legislative body,
23 with respect to matters of employment upon which the employee
24 desires to negotiate.

25 (e) The organizational structure of the public
26 employer.

27 (f) Community of interest among the employees to be
28 included in the unit, considering:

29 1. The manner in which wages and other terms of
30 employment are determined.

31 2. The method by which jobs and salary classifications

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1 are determined.

2 3. The interdependence of jobs and interchange of
3 employees.

4 4. The desires of the employees.

5 5. The history of employee relations within the
6 organization of the public employer concerning organization
7 and negotiation and the interest of the employees and the
8 employer in the continuation of a traditional, workable, and
9 accepted negotiation relationship.

10 (g) The statutory authority of the public employer to
11 administer a classification and pay plan.

12 (h) Such other factors and policies as the office
13 ~~commission~~ may deem appropriate.

14

15 However, no unit shall be established or approved for purposes
16 of collective bargaining which includes both professional and
17 nonprofessional employees unless a majority of each group
18 votes for inclusion in such unit.

19 Section 159. Effective January 1, 2002, section
20 447.308, Florida Statutes, is amended to read:

21 447.308 Revocation of certification of employee
22 organization.--

23 (1) Any employee or group of employees which no longer
24 desires to be represented by the certified bargaining agent
25 may file with the office ~~commission~~ a petition to revoke
26 certification. The petition shall be accompanied by dated
27 statements signed by at least 30 percent of the employees in
28 the unit, indicating that such employees no longer desire to
29 be represented for purposes of collective bargaining by the
30 certified bargaining agent. The time of filing said petition
31 shall be governed by the provisions of s. 447.307(3)(d)

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1 relating to petitions for certification. Any employee or
2 employee organization having sufficient reason to believe any
3 of the employee signatures were obtained by collusion,
4 coercion, intimidation, or misrepresentation or are otherwise
5 invalid shall be given a reasonable opportunity to verify and
6 challenge the signatures appearing on the petition. The
7 office commission or one of its designated agents shall
8 investigate the petition to determine its sufficiency. If the
9 office commission finds the petition to be insufficient, it
10 may dismiss the petition. If the office commission finds that
11 the petition is sufficient, it shall immediately:

12 (a) Identify the bargaining unit and determine which
13 public employees shall be qualified and entitled to vote in
14 the election held by the office commission.

15 (b) Identify the public employer or employers.

16 (c) Order an election by secret ballot, the cost of
17 which is said election to be borne equally by the parties,
18 except as the office commission may provide by rule. The
19 office's commission's order assessing costs of an election may
20 be enforced pursuant to the provisions of this part.

21 (2) If a majority of the employees voting in such
22 election vote against the continuation of representation by
23 the certified bargaining agent, the certification of the
24 employee organization as the exclusive bargaining agent for
25 the employees in the bargaining unit shall be revoked.

26 (3) If a majority of the employees voting in such
27 election do not vote against the continuation of
28 representation by the certified bargaining agent, the
29 certification of the employee organization as the exclusive
30 bargaining agent for the employees in the unit shall be
31 retained by the organization.

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1 Section 160. Effective January 1, 2002, subsection (4)
2 of section 447.309, Florida Statutes, is amended to read:

3 447.309 Collective bargaining; approval or
4 rejection.--

5 (4) If the agreement is not ratified by the public
6 employer or is not approved by a majority vote of employees
7 voting in the unit, in accordance with procedures adopted by
8 the office commission, the agreement shall be returned to the
9 chief executive officer and the employee organization for
10 further negotiations.

11 Section 161. Effective January 1, 2002, section
12 447.403, Florida Statutes, is amended to read:

13 447.403 Resolution of impasses.--

14 (1) ~~If~~After a reasonable period of negotiation
15 concerning the terms and conditions of employment to be
16 incorporated in a collective bargaining agreement, if a
17 dispute still exists between a public employer and a
18 bargaining agent, an impasse shall be deemed to have occurred
19 when one of the parties so declares in writing to the other
20 party and to the office commission.

21 (2) When an impasse occurs, the public employer or the
22 bargaining agent, or both parties acting jointly, may appoint,
23 or secure the appointment of, a mediator to assist in the
24 resolution of the impasse. Nothing in this section precludes
25 the parties from using the services of a mediator at any time
26 during the conduct of collective bargaining.

27 (3)(a)(2) If no mediator is appointed, or upon the
28 request of either party, the office commission shall appoint,
29 and submit all unresolved issues to, a special master
30 acceptable to both parties. If the parties are unable to agree
31 on the appointment of a special master, the office commission

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1 shall appoint, in its discretion, a qualified special master.
2 However, if the parties agree in writing to waive the
3 appointment of a special master, the parties may proceed
4 directly to resolution of the impasse by the legislative body
5 pursuant to paragraph (4)(d). ~~Nothing in this section~~
6 ~~precludes the parties from using the services of a mediator at~~
7 ~~any time during the conduct of collective bargaining.~~

8 **(b)(3)** The special master shall hold hearings in order
9 to define the area or areas of dispute, to determine facts
10 relating to the dispute, and to render a decision on any and
11 all unresolved contract issues. The hearings shall be held at
12 reasonable times, dates, and places to be established by the
13 special master in accordance with rules promulgated by the
14 office commission. The special master shall be empowered to
15 administer oaths and issue subpoenas on behalf of the parties
16 to the dispute or on his or her own behalf. Within 15
17 calendar days after the close of the final hearing, the
18 special master shall transmit his or her recommended decision
19 to the office commission and to the representatives of both
20 parties by registered mail, return receipt requested. Such
21 recommended decision shall be discussed by the parties, and
22 each recommendation of the special master shall be deemed
23 approved by both parties unless specifically rejected by
24 either party by written notice filed with the office
25 commission within 20 calendar days after the date the party
26 received the special master's recommended decision. The
27 written notice shall include a statement of the cause for each
28 rejection and shall be served upon the other party.

29 (4) In the event that either the public employer or
30 the employee organization does not accept, in whole or in
31 part, the recommended decision of the special master:

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1 (a) The chief executive officer of the governmental
2 entity involved shall, within 10 days after rejection of a
3 recommendation of the special master, submit to the
4 legislative body of the governmental entity involved a copy of
5 the findings of fact and recommended decision of the special
6 master, together with the chief executive officer's
7 recommendations for settling the disputed impasse issues. The
8 chief executive officer shall also transmit his or her
9 recommendations to the employee organization. If the dispute
10 involves employees for whom the Board of Regents is the public
11 employer, the Governor may also submit recommendations to the
12 legislative body for settling the disputed impasse issues.†

13 (b) The employee organization shall submit its
14 recommendations for settling the disputed impasse issues to
15 such legislative body and to the chief executive officer.†

16 (c) The legislative body or a duly authorized
17 committee thereof shall forthwith conduct a public hearing at
18 which the parties shall be required to explain their positions
19 with respect to the rejected recommendations of the special
20 master.†

21 (d) Thereafter, the legislative body shall take such
22 action as it deems to be in the public interest, including the
23 interest of the public employees involved, to resolve all
24 disputed impasse issues.†~~and~~

25 (e) Following the resolution of the disputed impasse
26 issues by the legislative body, the parties shall reduce to
27 writing an agreement which includes those issues agreed to by
28 the parties and those disputed impasse issues resolved by the
29 legislative body's action taken pursuant to paragraph (d).
30 The agreement shall be signed by the chief executive officer
31 and the bargaining agent and shall be submitted to the public

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1 employer and to the public employees who are members of the
2 bargaining unit for ratification. If such agreement is not
3 ratified by all parties, pursuant to the provisions of s.
4 447.309, the legislative body's action taken pursuant to the
5 provisions of paragraph (d) shall take effect as of the date
6 of such legislative body's action for the remainder of the
7 first fiscal year which was the subject of negotiations;
8 however, the legislative body's action shall not take effect
9 with respect to those disputed impasse issues which establish
10 the language of contractual provisions which could have no
11 effect in the absence of a ratified agreement, including, but
12 not limited to, preambles, recognition clauses, and duration
13 clauses.

14 Section 162. Effective January 1, 2002, section
15 447.4095, Florida Statutes, is amended to read:

16 447.4095 Financial urgency.--In the event of a
17 financial urgency requiring modification of an agreement, the
18 chief executive officer or his or her representative and the
19 bargaining agent or its representative shall meet as soon as
20 possible to negotiate the impact of the financial urgency. If
21 after a reasonable period of negotiation which shall not
22 exceed 14 days, a dispute exists between the public employer
23 and the bargaining agent, an impasse shall be deemed to have
24 occurred, and one of the parties shall so declare in writing
25 to the other party and to the office commission. The parties
26 shall then proceed pursuant to the provisions of s. 447.403.
27 An unfair labor practice charge shall not be filed during the
28 14 days during which negotiations are occurring pursuant to
29 this section.

30 Section 163. Effective January 1, 2002, section
31 447.503, Florida Statutes, is amended to read:

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1 447.503 Charges of unfair labor practices.--It is the
2 intent of the Legislature that the office ~~commission~~ act as
3 expeditiously as possible to settle disputes regarding alleged
4 unfair labor practices. To this end, violations of the
5 provisions of s. 447.501 shall be remedied by the office
6 ~~commission~~ in accordance with the following procedures and in
7 accordance with chapter 120; however, to the extent that
8 chapter 120 is inconsistent with the provisions of this
9 section, the procedures contained in this section shall
10 govern:

11 (1) A proceeding to remedy a violation of the
12 provisions of s. 447.501 shall be initiated by the filing of a
13 charge with the office ~~commission~~ by an employer, employee, or
14 employee organization, or any combination thereof. Such a
15 charge shall contain a clear and concise statement of facts
16 constituting the alleged unfair labor practice, including the
17 names of all individuals involved in the alleged unfair labor
18 practice, specific reference to the provisions of s. 447.501
19 alleged to have been violated, and such other relevant
20 information as the office ~~commission~~ may by rule require or
21 allow. Service of the charge shall be made upon each named
22 respondent at the time of filing with the office ~~commission~~.
23 The charge must be accompanied by sworn statements and
24 documentary evidence sufficient to establish a prima facie
25 violation of the applicable unfair labor practice provision.
26 Such supporting evidence is not to be attached to the charge
27 and is to be furnished only to the office ~~commission~~.

28 (2) The office ~~commission~~, or any agent designated by
29 it for such purpose, shall thereupon review the charge to
30 determine its sufficiency.

31 (a) If upon review it is determined that the charge is

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1 insufficient, the office commission or its designated agent
2 may issue a summary dismissal of the charge. A charging party
3 whose charge is dismissed by a designated agent may appeal the
4 dismissal to the office commission within 20 days after the
5 date of issuance of the dismissal. If the office commission
6 finds the charge to be sufficient, it shall reinstate the
7 charge.

8 (b) If upon review it is determined that the charge is
9 sufficient, the office commission shall notify the parties.
10 Each respondent so charged shall thereupon file an answer to
11 the charge with the office commission, and serve a copy upon
12 the charging party, no more than 20 days after service of
13 notification of the sufficiency of the charge, unless
14 otherwise allowed by the office commission. The office
15 commission, in its discretion, may allow a charge or answer to
16 be amended at any time. The office commission may also, in
17 its discretion, allow other interested parties to intervene in
18 the proceeding.

19 (3) Whenever a charging party alleges that a
20 respondent has engaged in unfair labor practices and that the
21 charging party will suffer substantial and irreparable injury
22 if not granted temporary relief, the office commission may
23 petition the circuit court for appropriate injunctive relief
24 pending the final adjudication by the office commission with
25 respect to such matter. Upon the filing of any such petition,
26 the court shall cause notice thereof to be served upon the
27 parties and, thereupon, shall have jurisdiction to grant such
28 temporary relief or restraining order as it deems just and
29 proper.

30 (4) The office commission may issue prehearing orders
31 requiring the parties to provide written statements of

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1 relevant issues of fact and law and such other information as
2 the office commission may require to expedite the resolution
3 of the case. Such orders may further direct the parties to
4 identify witnesses, exchange intended exhibits and documentary
5 evidence, and appear at a conference before the office
6 commission or an employee a member thereof, ~~or a designated~~
7 ~~hearing officer~~, for the purpose of handling such matters as
8 will aid the office commission in expeditiously resolving the
9 case before it.

10 (5) Whenever the proceeding involves a disputed issue
11 of material fact and an evidentiary hearing is to be
12 conducted:

13 (a) The office commission shall issue and serve upon
14 all parties a notice of hearing before a person ~~an~~ assigned
15 pursuant to paragraph (b) ~~hearing officer~~ at a time and place
16 specified therein. Such notice shall be issued at least 14
17 days prior to the scheduled hearing.

18 (b) The evidentiary hearing shall be conducted by a
19 person designated by the executive director of the office who
20 is an office employee and a member of The Florida Bar or an
21 agent designated by the executive director who is a member of
22 The Florida Bar ~~hearing officer designated by the commission.~~
23 ~~Said hearing officer may be the commission itself, a member of~~
24 ~~the commission, or an agent designated by the commission for~~
25 ~~such purpose, provided that such agent shall be an employee of~~
26 ~~the commission and a member of The Florida Bar.~~

27 (c) Not later than 45 days after the close of the
28 evidentiary hearing, unless extended by the office commission
29 with the consent of all parties, the person conducting the
30 ~~hearing officer~~ shall submit to the office commission and to
31 all parties a recommended order which shall include findings

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1 of fact and recommended rulings on procedural matters. The
2 recommended order may also include recommended conclusions of
3 law if requested by the office commission.

4 ~~(d) If the hearing was held before the commission or a~~
5 ~~member of the commission, the commission may elect to issue a~~
6 ~~final order which is in compliance with ss. 120.569 and~~
7 ~~120.57.~~

8 (6)(a) If, upon consideration of the record in the
9 case, the office commission finds that an unfair labor
10 practice has been committed, it shall issue and cause to be
11 served an order requiring the appropriate party or parties to
12 cease and desist from the unfair labor practice and take such
13 positive action, including reinstatement of employees with or
14 without back pay, as will best implement the general policies
15 expressed in this part. However, no order of the office
16 ~~commission~~ shall require the reinstatement of any individual
17 as an employee who has been suspended or discharged, or the
18 payment of any back pay, if the individual was suspended or
19 discharged as otherwise provided by law for cause. The order
20 may further require the party or parties to make periodic
21 reports showing the extent to which it has complied with the
22 order. If, upon consideration of the record in the case, the
23 office commission finds that an unfair labor practice has not
24 been or is not being committed, it shall issue an order
25 dismissing the case.

26 (b) If the office commission determines that the
27 alleged unfair labor practice occurred more than 6 months
28 prior to the filing of the charge, the office commission shall
29 issue an order dismissing the case, unless the person filing
30 the charge was prevented from doing so by reason of service in
31 the Armed Forces, in which case the 6-month period shall run

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1 from the date of the person's discharge.

2 (c) The office ~~commission~~ may award to the prevailing
3 party all or part of the costs of litigation, reasonable
4 attorney's fees, and expert witness fees whenever the office
5 ~~commission~~ determines that such an award is appropriate.

6 (d) Final orders of the office ~~commission~~ issued
7 pursuant to this section shall be enforced pursuant to the
8 provisions of s. 447.5035 and shall be reviewed pursuant to
9 the provisions of s. 447.504.

10 Section 164. Effective January 1, 2002, section
11 447.5035, Florida Statutes, is amended to read:

12 447.5035 Enforcement of office ~~commission~~ orders.--In
13 case of any failure by any employer, employee, or employee
14 organization to comply with any order of the office
15 ~~commission~~, upon application of the office ~~commission~~ or,
16 notwithstanding the provisions of s. 120.69(1)(b)1., upon
17 application of any person who is a resident of the state and
18 who is substantially interested in such order, any circuit
19 court of this state shall have jurisdiction to enforce the
20 order pursuant to the provisions of s. 120.69. However, if one
21 or more petitions for enforcement and a notice of appeal
22 involving the same agency action are pending at the same time,
23 the district court of appeal considering the notice of appeal
24 shall order all such actions transferred to and consolidated
25 in the district court of appeal. If a petition for
26 enforcement is filed after the time for filing notice of
27 appeal has expired, the respondent may assert as a defense
28 only that the agency action was not intended to apply to
29 respondent or that respondent has complied with the agency
30 action. Petitions for enforcement filed under this part shall
31 be heard expeditiously by the circuit court to which presented

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1 and shall take precedence over all other civil matters except
2 prior matters of the same character.

3 Section 165. Effective January 1, 2002, section
4 447.504, Florida Statutes, is amended to read:

5 447.504 Judicial review.--

6 (1) Except with respect to voluntary binding
7 arbitration orders as otherwise provided for in s. 109.240,
8 the district courts of appeal are empowered, upon the filing
9 of appropriate notices of appeal, to review final orders of
10 the office commission pursuant to s. 120.68. A copy of the
11 notice of appeal shall be filed with the office commission.
12 The record in the proceeding, certified by the office
13 commission, shall be filed with the court in accordance with
14 the Florida Rules of Appellate Procedure.

15 (2) Upon the filing of a notice of appeal, the
16 appropriate district court of appeal shall thereupon have
17 jurisdiction of the proceeding and may grant such temporary or
18 permanent relief or restraining order as it deems just and
19 proper and may enforce, modify, affirm, or set aside, in whole
20 or in part, the order of the office commission. The findings
21 of the office commission with respect to questions of fact, if
22 supported by substantial evidence on the record considered as
23 a whole, shall be conclusive.

24 (3) The court may award to the prevailing party all or
25 part of the costs of litigation and reasonable attorney's fees
26 and expert witness fees whenever the court determines that
27 such an award is appropriate. However, no such costs or fees
28 shall be assessed against the office commission in any appeal
29 from an order issued by the office commission in an
30 adjudicatory proceeding between adversary parties conducted
31 pursuant to this part.

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1 (4) The commencement of proceedings under this section
2 shall not, unless specifically ordered by the district court
3 of appeal, operate as a stay of the office's ~~commission's~~
4 order.

5 (5) Appeals filed under this part shall be heard
6 expeditiously by the district court of appeal to which
7 presented and shall take precedence over all other civil
8 matters except prior matters of the same character.

9 Section 166. Effective January 1, 2002, section
10 447.507, Florida Statutes, is amended to read:

11 447.507 Violation of strike prohibition; penalties.--

12 (1) Circuit courts having jurisdiction of the parties
13 are vested with the authority to hear and determine all
14 actions alleging violations of s. 447.505. Suits to enjoin
15 violations of s. 447.505 will have priority over all matters
16 on the court's docket except other emergency matters.

17 (2) If a public employee, a group of employees, an
18 employee organization, or any officer, agent, or
19 representative of any employee organization engages in a
20 strike in violation of s. 447.505, either the office
21 ~~commission~~ or any public employer whose employees are involved
22 or whose employees may be affected by the strike may file suit
23 to enjoin the strike in the circuit court having proper
24 jurisdiction and proper venue of such actions under the
25 Florida Rules of Civil Procedure and Florida Statutes. The
26 circuit court shall conduct a hearing, with notice to the
27 office ~~commission~~ and to all interested parties, at the
28 earliest practicable time. If the plaintiff makes a prima
29 facie showing that a violation of s. 447.505 is in progress or
30 that there is a clear, real, and present danger that such a
31 strike is about to commence, the circuit court shall issue a

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1 temporary injunction enjoining the strike. Upon final
2 hearing, the circuit court shall either make the injunction
3 permanent or dissolve it.

4 (3) If an injunction to enjoin a strike issued
5 pursuant to this section is not promptly complied with, on the
6 application of the plaintiff, the circuit court shall
7 immediately initiate contempt proceedings against those who
8 appear to be in violation. An employee organization found to
9 be in contempt of court for violating an injunction against a
10 strike shall be fined an amount deemed appropriate by the
11 court. In determining the appropriate fine, the court shall
12 objectively consider the extent of lost services and the
13 particular nature and position of the employee group in
14 violation. In no event shall the fine exceed \$5,000. Each
15 officer, agent, or representative of an employee organization
16 found to be in contempt of court for violating an injunction
17 against a strike shall be fined not less than \$50 nor more
18 than \$100 for each calendar day that the violation is in
19 progress.

20 (4) An employee organization shall be liable for any
21 damages which might be suffered by a public employer as a
22 result of a violation of the provisions of s. 447.505 by the
23 employee organization or its representatives, officers, or
24 agents. The circuit court having jurisdiction over such
25 actions is empowered to enforce judgments against employee
26 organizations, as defined in this part, by attachment or
27 garnishment of union initiation fees or dues which are to be
28 deducted or checked off by public employers. No action shall
29 be maintained pursuant to this subsection until all
30 proceedings which were pending before the office commission at
31 the time of the strike or which were initiated within 30 days

1 of the strike have been finally adjudicated or otherwise
2 disposed of. In determining the amount of damages, if any, to
3 be awarded to the public employer, the trier of fact shall
4 take into consideration any action or inaction by the public
5 employer or its agents that provoked or tended to provoke the
6 strike by the public employees. The trier of fact shall also
7 take into consideration any damages that might have been
8 recovered by the public employer under subparagraph (6)(a)4.

9 (5) If the office commission, after a hearing on
10 notice conducted according to rules promulgated by the office
11 commission, determines that an employee has violated s.
12 447.505, it may order the termination of his or her employment
13 by the public employer. Notwithstanding any other provision of
14 law, a person knowingly violating the provision of said
15 section may, subsequent to such violation, be appointed,
16 reappointed, employed, or reemployed as a public employee, but
17 only upon the following conditions:

18 (a) Such person shall be on probation for a period of
19 18 6 months following his or her appointment, reappointment,
20 employment, or reemployment, during which period he or she
21 shall serve without permanent status and at the pleasure of
22 the agency head tenure. ~~During this period, the person may be~~
23 ~~discharged only upon a showing of just cause.~~

24 (b) His or her compensation may in no event exceed
25 that received immediately prior to the time of the violation.

26 (c) The compensation of the person may not be
27 increased until after the expiration of 1 year from such
28 appointment, reappointment, employment, or reemployment.

29 (6)(a) If the office commission determines that an
30 employee organization has violated s. 447.505, it may:

31 1. Issue cease and desist orders as necessary to

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1 ensure compliance with its order.

2 2. Suspend or revoke the certification of the employee
3 organization as the bargaining agent of such employee unit.

4 3. Revoke the right of dues deduction and collection
5 previously granted to said employee organization pursuant to
6 s. 447.303.

7 4. Fine the organization up to \$20,000 for each
8 calendar day of such violation or determine the approximate
9 cost to the public due to each calendar day of the strike and
10 fine the organization an amount equal to such cost,
11 notwithstanding the fact that the fine may exceed \$20,000 for
12 each such calendar day. The fines so collected shall
13 immediately accrue to the public employer and shall be used by
14 him or her to replace those services denied the public as a
15 result of the strike. In determining the amount of damages,
16 if any, to be awarded to the public employer, the office
17 ~~commission~~ shall take into consideration any action or
18 inaction by the public employer or its agents that provoked,
19 or tended to provoke, the strike by the public employees.

20 (b) An organization determined to be in violation of
21 s. 447.505 shall not be certified until 1 year from the date
22 of final payment of any fine against it.

23 Section 167. Effective July 1, 2001, section 447.607,
24 Florida Statutes, is amended to read:

25 447.607 Office ~~Commission~~ rules; powers retained by
26 the Legislature.--The Legislature shall retain the right to
27 approve, amend, or rescind all rules promulgated by the office
28 ~~commission~~ pursuant to this part. In the absence of
29 legislative action to the contrary, all rules shall have full
30 force and effect.

31 Section 168. Effective June 30, 2002, subsection (7)

1 of section 20.171, Florida Statutes, is amended to read:

2 20.171 Department of Labor and Employment
3 Security.--There is created a Department of Labor and
4 Employment Security. The department shall operate its programs
5 in a decentralized fashion.

6 (7) The Unemployment Appeals Commission is following
7 ~~commissions are~~ established within the Department of Labor and
8 Employment Security.†

9 ~~(a) Public Employees Relations Commission.~~

10 ~~(b) Unemployment Appeals Commission.~~

11 Section 169. Effective January 1, 2002, paragraph (m)
12 of subsection (2) of section 39.202, Florida Statutes, is
13 amended to read:

14 39.202 Confidentiality of reports and records in cases
15 of child abuse or neglect.--

16 (2) Access to such records, excluding the name of the
17 reporter which shall be released only as provided in
18 subsection (4), shall be granted only to the following
19 persons, officials, and agencies:

20 (m) The Office of Employee Relations within the
21 Department of Management Services ~~Public Employees Relations~~
22 ~~Commission~~ for the sole purpose of obtaining evidence for
23 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
24 to s. 109.240 ~~447.207~~. Records may be released only after
25 deletion of all information which specifically identifies
26 persons other than the employee.

27 Section 170. Effective January 1, 2002, subsection (4)
28 of section 112.044, Florida Statutes, as amended by this act,
29 is amended to read:

30 112.044 Public employers, employment agencies, labor
31 organizations; discrimination based on age prohibited;

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1 exceptions; remedy.--

2 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
3 the state ~~who is within the Career Service System established~~
4 ~~by chapter 109 and who is aggrieved by a violation of this act~~
5 ~~may appeal to the Public Employees Relations Commission under~~
6 ~~the conditions and following the procedures prescribed in part~~
7 ~~II of chapter 447. Any person other than an employee who is~~
8 ~~within the Career Service System established by chapter 109,~~
9 ~~or any person employed by the Public Employees Relations~~
10 ~~Commission, who is aggrieved by a violation of this act may~~
11 bring a civil action in any court of competent jurisdiction
12 for such legal or equitable relief as will effectuate the
13 purposes of this act, unless voluntary binding arbitration is
14 conducted pursuant to s. 109.240.

15 Section 171. Effective January 1, 2002, paragraph (b)
16 of subsection (6), subsection (14), and paragraph (a) of
17 subsection (15) of section 112.0455, Florida Statutes, are
18 amended to read:

19 112.0455 Drug-Free Workplace Act.--

20 (6) NOTICE TO EMPLOYEES.--

21 (b) Prior to testing, all employees and job applicants
22 for employment shall be given a written policy statement from
23 the employer which contains:

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

26 a. The types of testing an employee or job applicant
27 may be required to submit to, including reasonable suspicion
28 or other basis; and

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

- 1 2. A statement advising the employee or job applicant
2 of the existence of this section.
- 3 3. A general statement concerning confidentiality.
- 4 4. Procedures for employees and job applicants to
5 confidentially report the use of prescription or
6 nonprescription medications both before and after being
7 tested. Additionally, employees and job applicants shall
8 receive notice of the most common medications by brand name or
9 common name, as applicable, as well as by chemical name, which
10 may alter or affect a drug test. A list of such medications
11 shall be developed by the Agency for Health Care
12 Administration.
- 13 5. The consequences of refusing to submit to a drug
14 test.
- 15 6. Names, addresses, and telephone numbers of employee
16 assistance programs and local alcohol and drug rehabilitation
17 programs.
- 18 7. A statement that an employee or job applicant who
19 receives a positive confirmed drug test result may contest or
20 explain the result to the employer within 5 working days after
21 written notification of the positive test result. If an
22 employee or job applicant's explanation or challenge is
23 unsatisfactory to the employer, the person may contest the
24 drug test result as provided by subsections (14) and (15).
- 25 8. A statement informing the employee or job applicant
26 of his or her responsibility to notify the laboratory of any
27 administrative or civil actions brought pursuant to this
28 section.
- 29 9. A list of all drugs for which the employer will
30 test, described by brand names or common names, as applicable,
31 as well as by chemical names.

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1 10. A statement regarding any applicable collective
2 bargaining agreement or contract and the right to appeal to
3 the circuit court or request voluntary binding arbitration, if
4 applicable, as provided for by s. 109.240 ~~Public Employees~~
5 ~~Relations Commission.~~

6 11. A statement notifying employees and job applicants
7 of their right to consult the testing laboratory for technical
8 information regarding prescription and nonprescription
9 medication.

10 (14) DISCIPLINE REMEDIES.--

11 (a) An executive branch employee who is disciplined or
12 who is a job applicant for another position and is not hired
13 pursuant to this section, may file an appeal with the circuit
14 court or request voluntary binding arbitration, if applicable,
15 as provided for by s. 109.240 ~~Public Employees Relations~~
16 ~~Commission.~~ Any appeal must be filed within 30 calendar days
17 of receipt by the employee or job applicant of notice of
18 discipline or refusal to hire. The notice shall inform the
19 employee or job applicant of the right to file an appeal, or
20 if available, the right to file a collective bargaining
21 grievance pursuant to s. 447.401. ~~Such appeals shall be~~
22 ~~resolved pursuant to the procedures established in ss.~~
23 ~~447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing
24 on the appeal shall be conducted within 30 days after ~~of~~ the
25 filing of the appeal, unless an extension is requested by the
26 employee or job applicant and granted by the court ~~commission~~
27 or a collective bargaining grievance ~~an~~ arbitrator.

28 ~~(b) The commission shall promulgate rules concerning~~
29 ~~the receipt, processing, and resolution of appeals filed~~
30 ~~pursuant to this section.~~

31 ~~(c) Appeals to the commission shall be the exclusive~~

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1 ~~administrative remedy for any employee who is disciplined or~~
2 ~~any job applicant who is not hired pursuant to this section,~~
3 ~~notwithstanding the provisions of chapter 120. However,~~
4 Nothing in this subsection shall affect the right of an
5 employee or job applicant to file a collective bargaining
6 grievance pursuant to s. 447.401 provided that an employee or
7 job applicant may not file both an appeal and a grievance.

8 ~~(d) An employee or a job applicant who has been~~
9 ~~disciplined or who has not been hired pursuant to this section~~
10 ~~must exhaust either the administrative appeal process or~~
11 ~~collective bargaining grievance arbitration process.~~

12 ~~(e) Upon resolving an appeal filed pursuant to~~
13 ~~paragraph (c), and finding a violation of this section, the~~
14 ~~commission may order the following relief:~~

15 ~~1. Rescind the disciplinary action, expunge related~~
16 ~~records from the personnel file of the employee or job~~
17 ~~applicant and reinstate the employee.~~

18 ~~2. Order compliance with paragraph (10)(g).~~

19 ~~3. Award back pay and benefits.~~

20 ~~(b)4.~~ The court may award the prevailing employee or
21 job applicant the necessary costs of the appeal, reasonable
22 attorney's fees, and expert witness fees.

23 (15) NONDISCIPLINE REMEDIES.--

24 (a) Any person alleging a violation of the provisions
25 of this section, that is not remediable ~~by the commission or~~
26 ~~an arbitrator~~ pursuant to subsection (14), must institute a
27 civil action for injunctive relief or damages, or both, in a
28 court of competent jurisdiction within 180 days of the alleged
29 violation, or be barred from obtaining the following relief.
30 Relief is limited to:

31 1. An order restraining the continued violation of

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1 this section.

2 2. An award of the costs of litigation, expert witness
3 fees, reasonable attorney's fees, and noneconomic damages
4 provided that damages shall be limited to the recovery of
5 damages directly resulting from injury or loss caused by each
6 violation of this section.

7 Section 172. Effective July 1, 2001, paragraph (a) of
8 subsection (8) of section 112.215, Florida Statutes, is
9 amended to read:

10 112.215 Government employees; deferred compensation
11 program.--

12 (8)(a) There is hereby created a Deferred Compensation
13 Advisory Council composed of seven members.

14 1. One member shall be appointed by the Speaker of the
15 House of Representatives and the President of the Senate
16 jointly and shall be an employee of the legislative branch.

17 2. One member shall be appointed by the Chief Justice
18 of the Supreme Court and shall be an employee of the judicial
19 branch.

20 3. One member shall be appointed by the executive
21 board of the Office of Employee Relations within the
22 Department of Management Services ~~chair of the Public~~
23 ~~Employees Relations Commission~~ and shall be a nonexempt public
24 employee.

25 4. The remaining four members shall be employed by the
26 executive branch and shall be appointed as follows:

27 a. One member shall be appointed by the Chancellor of
28 the State University System and shall be an employee of the
29 university system.

30 b. One member shall be appointed by the Treasurer and
31 shall be an employee of the Treasurer.

1 c. One member shall be appointed by the Governor and
2 shall be an employee of the executive branch.

3 d. One member shall be appointed by the Comptroller
4 and shall be an employee of the Comptroller.

5 Section 173. Effective July 1, 2001, paragraph (a) of
6 subsection (3) and subsection (4) of section 112.31895,
7 Florida Statutes, are amended to read:

8 112.31895 Investigative procedures in response to
9 prohibited personnel actions.--

10 (3) CORRECTIVE ACTION AND TERMINATION OF
11 INVESTIGATION.--

12 (a) The Florida Commission on Human Relations, in
13 accordance with this act and for the sole purpose of this act,
14 is empowered to:

15 1. Receive and investigate complaints from employees
16 alleging retaliation by state agencies, as the term "state
17 agency" is defined in s. 216.011.

18 2. Protect employees and applicants for employment
19 with such agencies from prohibited personnel practices under
20 s. 112.3187.

21 3. Petition for stays and petition for corrective
22 actions, including, but not limited to, temporary
23 reinstatement.

24 4. Recommend disciplinary proceedings pursuant to
25 investigation and appropriate agency rules and procedures.

26 5. Coordinate with the Chief Inspector General in the
27 Executive Office of the Governor and the Florida Commission on
28 Human Relations to receive, review, and forward to appropriate
29 agencies, legislative entities, or the Department of Law
30 Enforcement disclosures of a violation of any law, rule, or
31 regulation, or disclosures of gross mismanagement,

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1 malfeasance, misfeasance, nonfeasance, neglect of duty, or
2 gross waste of public funds.

3 6. Review rules pertaining to personnel matters issued
4 or proposed by the Department of Management Services, ~~the~~
5 ~~Public Employees Relations Commission~~, and other agencies,
6 and, if the Florida Commission on Human Relations finds that
7 any rule or proposed rule, on its face or as implemented,
8 requires the commission of a prohibited personnel practice,
9 provide a written comment to the appropriate agency.

10 7. Investigate, request assistance from other
11 governmental entities, and, if appropriate, bring actions
12 concerning, allegations of retaliation by state agencies under
13 subparagraph 1.

14 8. Administer oaths, examine witnesses, take
15 statements, issue subpoenas, order the taking of depositions,
16 order responses to written interrogatories, and make
17 appropriate motions to limit discovery, pursuant to
18 investigations under subparagraph 1.

19 9. Intervene or otherwise participate, as a matter of
20 right, in any appeal or other proceeding arising under this
21 section before an ~~the Public Employees Relations Commission or~~
22 ~~any other appropriate~~ agency, except that the Florida
23 Commission on Human Relations must comply with the rules of
24 that ~~the commission or other~~ agency and may not seek
25 corrective action or intervene in an appeal or other
26 proceeding without the consent of the person protected under
27 ss. 112.3187-112.31895.

28 10. Conduct an investigation, in the absence of an
29 allegation, to determine whether reasonable grounds exist to
30 believe that a prohibited action or a pattern of prohibited
31 action has occurred, is occurring, or is to be taken.

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1 (4) RIGHT TO APPEAL.--

2 ~~(a) Not more than 60 days after receipt of a notice of~~
 3 ~~termination of the investigation from the Florida Commission~~
 4 ~~on Human Relations, the complainant may file for judicial~~
 5 ~~review of the notice of termination as provided for in s.~~
 6 ~~120.68. The notice of termination of the investigation, which~~
 7 ~~shall contain a statement of facts, analysis, and conclusions,~~
 8 ~~shall be considered final agency action for purposes of s.~~
 9 ~~120.68., with the Public Employees Relations Commission, a~~
 10 ~~complaint against the hearings regarding the alleged~~
 11 ~~prohibited personnel action. The Public Employees Relations~~
 12 ~~Commission shall have jurisdiction over such complaints under~~
 13 ~~ss. 112.3187 and 447.503(4) and (5).~~

14 ~~(b) Judicial review of any final order of the~~
 15 ~~commission shall be as provided in s. 120.68.~~

16 Section 174. Effective July 1, 2001, subsection (12)
 17 of section 120.80, Florida Statutes, is amended to read:

18 120.80 Exceptions and special requirements;
 19 agencies.--

20 (12) OFFICE OF EMPLOYEE RELATIONS ~~PUBLIC EMPLOYEES~~
 21 ~~RELATIONS COMMISSION.--~~

22 (a) Notwithstanding s. 120.57(1)(a), hearings within
 23 the jurisdiction of the Office of Employee Relations within
 24 the Department of Management Services ~~Public Employees~~
 25 ~~Relations Commission~~ need not be conducted by an
 26 administrative law judge assigned by the division.

27 (b) Section 120.60 does not apply to certification of
 28 employee organizations pursuant to s. 447.307.

29 Section 175. Paragraph (d) of subsection (2) of
 30 section 125.0108, Florida Statutes, is repealed.

31 Section 176. Paragraph (b) of subsection (9) of

1 section 376.75, Florida Statutes, is amended to read:

2 376.75 Tax on production or importation of
3 perchloroethylene.--

4 (9)

5 (b) ~~The Department of Revenue, under the applicable~~
6 ~~rules of the Public Employees Relations Commission, is~~
7 ~~authorized to employ persons and incur other expenses for~~
8 ~~which funds are appropriated by the Legislature.~~The
9 Department of Revenue is empowered to adopt such rules and
10 shall prescribe and publish such forms as may be necessary to
11 effectuate the purposes of this section.

12 Section 177. Paragraph (b) of subsection (3) of
13 section 403.718, Florida Statutes, is amended to read:

14 403.718 Waste tire fees.--

15 (3)

16 (b) ~~The Department of Revenue, under the applicable~~
17 ~~rules of the Career Service Commission, is authorized to~~
18 ~~employ persons and incur other expenses for which funds are~~
19 ~~appropriated by the Legislature.~~ The department is empowered
20 to adopt such rules and shall prescribe and publish such forms
21 as may be necessary to effectuate the purposes of this
22 section. The department is authorized to establish audit
23 procedures and to assess delinquent fees.

24 Section 178. Section 538.11, Florida Statutes, is
25 amended to read:

26 538.11 Powers and duties of department; rules.--The
27 same duties and privileges imposed by chapter 212 upon dealers
28 of tangible personal property respecting the keeping of books
29 and records and accounts and compliance with rules of the
30 department shall apply to and be binding upon all persons who
31 are subject to the provisions of this chapter. The department

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1 shall administer, collect, and enforce the registration
2 authorized under this chapter pursuant to the same procedures
3 used in the administration, collection, and enforcement of the
4 general state sales tax imposed under chapter 212, except as
5 provided in this section. The provisions of chapter 212
6 regarding the keeping of records and books shall apply. ~~The~~
7 ~~department, under the applicable rules of the Career Service~~
8 ~~Commission, is authorized to employ persons and incur other~~
9 ~~expenses for which funds are appropriated by the Legislature.~~
10 The department is empowered to adopt such rules, and shall
11 prescribe and publish such forms, as may be necessary to
12 effectuate the purposes of this chapter. The Legislature
13 hereby finds that the failure to promptly implement the
14 provisions of this chapter would present an immediate threat
15 to the welfare of the state. Therefore, the executive director
16 of the department is hereby authorized to adopt emergency
17 rules pursuant to s. 120.54(4), for purposes of implementing
18 this chapter. Notwithstanding any other provision of law, such
19 emergency rules shall remain effective for 6 months from the
20 date of adoption. Other rules of the department related to and
21 in furtherance of the orderly implementation of the chapter
22 shall not be subject to a rule challenge under s. 120.56(2) or
23 a drawout proceeding under s. 120.54(3)(c)2. but, once
24 adopted, shall be subject to an invalidity challenge under s.
25 120.56(3). Such rules shall be adopted by the Governor and
26 Cabinet and shall become effective upon filing with the
27 Department of State, notwithstanding the provisions of s.
28 120.54(3)(e)6.

29 Section 179. Effective July 1, 2001, section 284.30,
30 Florida Statutes, is amended to read:

31 284.30 State Risk Management Trust Fund; coverages to

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1 be provided.--A state self-insurance fund, designated as the
2 "State Risk Management Trust Fund," is created to be set up by
3 the Department of Insurance and administered with a program of
4 risk management, which fund is to provide insurance, as
5 authorized by s. 284.33, for workers' compensation, general
6 liability, fleet automotive liability, federal civil rights
7 actions under 42 U.S.C. s. 1983 or similar federal statutes,
8 and court-awarded attorney's fees in other proceedings against
9 the state except for such awards in eminent domain or for
10 inverse condemnation ~~or for awards by the Public Employees~~
11 ~~Relations Commission~~. A party to a suit in any court, to be
12 entitled to have his or her attorney's fees paid by the state
13 or any of its agencies, must serve a copy of the pleading
14 claiming the fees on the Department of Insurance; and
15 thereafter the department shall be entitled to participate
16 with the agency in the defense of the suit and any appeal
17 thereof with respect to such fees.

18 Section 180. Effective July 1, 2001, section 284.31,
19 Florida Statutes, is amended to read:

20 284.31 Scope and types of coverages; separate
21 accounts.--The insurance risk management trust fund shall,
22 unless specifically excluded by the Department of Insurance,
23 cover all departments of the State of Florida and their
24 employees, agents, and volunteers and shall provide separate
25 accounts for workers' compensation, general liability, fleet
26 automotive liability, federal civil rights actions under 42
27 U.S.C. s. 1983 or similar federal statutes, and court-awarded
28 attorney's fees in other proceedings against the state except
29 for such awards in eminent domain or for inverse condemnation
30 ~~or for awards by the Public Employees Relations Commission~~.
31 Unless specifically excluded by the Department of Insurance,

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1 the insurance risk management trust fund shall provide fleet
2 automotive liability coverage to motor vehicles titled to the
3 state, or to any department of the state, when such motor
4 vehicles are used by community transportation coordinators
5 performing, under contract to the appropriate department of
6 the state, services for the transportation disadvantaged under
7 part I of chapter 427. Such fleet automotive liability
8 coverage shall be primary and shall be subject to the
9 provisions of s. 768.28 and parts II and III of chapter 284,
10 and applicable rules adopted thereunder, and the terms and
11 conditions of the certificate of coverage issued by the
12 Department of Insurance.

13 Section 181. Effective January 1, 2002, section
14 295.11, Florida Statutes, is amended to read:

15 295.11 Investigation; administrative hearing for not
16 employing preferred applicant.--

17 (1) The Department of Veterans' Affairs or its
18 designee shall, upon the written request of any person
19 specified in s. 295.07, investigate any complaint filed with
20 the department by such person when the person has applied to
21 any state agency or any agency of a political subdivision in
22 the state for a position of employment which was awarded to a
23 nonveteran and the person feels aggrieved under this chapter.
24 The Department of Veterans' Affairs shall review each case ~~and~~
25 ~~may issue an opinion to the Public Employees Relations~~
26 ~~Commission~~ as to the merit or lack of merit in each case. The
27 investigation must be accomplished within existing amounts
28 appropriated to the department.

29 (2) Upon completion of the investigation, the
30 department shall furnish a copy of the investigative findings
31 to the complainant and to the agency involved.

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1 ~~(3) When a satisfactory resolution to the complaint is~~
2 ~~not forthcoming, any department of the state or political~~
3 ~~subdivision in the state may testify telephonically or in~~
4 ~~person at the discretion of the Public Employees Relations~~
5 ~~Commission. The complainant, however, may be represented at~~
6 ~~the hearing by counsel of his or her choice at his or her~~
7 ~~expense.~~

8 ~~(3)(4) Jurisdiction to effectuate the purposes of ss.~~
9 ~~295.07-295.09 shall vest with the circuit court, unless~~
10 ~~voluntary binding arbitration is appropriate as provided for~~
11 ~~by s. 109.240 Public Employees Relations Commission for~~
12 ~~appropriate administrative determination. If, upon preliminary~~
13 ~~review of the Public Employees Relations Commission, the~~
14 ~~commission agrees with the department's determination that a~~
15 ~~case lacks merit and finds, in its discretion, that there was~~
16 ~~a complete absence of justiciable issues of either law or fact~~
17 ~~raised by the veterans' preference complaint, the Public~~
18 ~~Employees Relations Commission shall dismiss the complaint~~
19 ~~without the necessity of holding a hearing.~~

20 Section 182. Effective January 1, 2002, section
21 295.14, Florida Statutes, is amended to read:

22 295.14 Penalties.--

23 (1) When the court ~~Public Employees Relations~~
24 ~~Commission, after a hearing on notice conducted according to~~
25 ~~rules adopted by the commission, determines that a violation~~
26 ~~of s. 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b)~~
27 ~~has occurred and sustains the veteran seeking redress, the~~
28 ~~court commission shall order the offending agency, employee,~~
29 ~~or officer of the state to comply with the provisions of s.~~
30 ~~295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b); and,~~
31 ~~in the event of a violation of s. 295.07, s. 295.08, s.~~

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1 295.085, or s. 295.09(1)(a) or (b), the court ~~commission~~ may
2 issue an order to compensate the veteran for the loss of any
3 wages and reasonable attorney's fees for actual hours worked,
4 ~~and costs of all work, including litigation, incurred as a~~
5 ~~result of such violation, which order shall be conclusive on~~
6 ~~the agency, employee, or officer concerned.~~ The attorney's
7 fees and costs may not exceed \$10,000. ~~The action of the~~
8 ~~commission shall be in writing and shall be served on the~~
9 ~~parties concerned by certified mail with return receipt~~
10 ~~requested.~~

11 ~~(2) When reparation is sought through civil action in~~
12 ~~a court of competent jurisdiction, Any agency, employee, or~~
13 officer of the state or a political subdivision thereof found
14 in violation of any provision of this act shall, in addition
15 to any other edict issued by the court, be required to pay the
16 costs of suit and reasonable attorney's fees incurred in such
17 action and shall be required to pay as damages such amount as
18 the court may award, any law to the contrary notwithstanding.

19 ~~(2)(3)~~ Any employee or officer found liable pursuant
20 to a second or subsequent violation of the provisions of this
21 section shall forfeit his or her position.

22 Section 183. Effective January 1, 2002, paragraph (k)
23 of subsection (3) of section 415.107, Florida Statutes, is
24 amended to read:

25 415.107 Confidentiality of reports and records.--

26 (3) Access to all records, excluding the name of the
27 reporter which shall be released only as provided in
28 subsection (6), shall be granted only to the following
29 persons, officials, and agencies:

30 (k) The Office of Employee Relations within the
31 Department of Management Services ~~Public Employees Relations~~

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1 ~~Commission~~ for the sole purpose of obtaining evidence for
2 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
3 to s. 109.240 ~~447.207~~. Records may be released only after
4 deletion of all information that specifically identifies
5 persons other than the employee.

6 Section 184. Effective January 1, 2002, paragraph (a)
7 of subsection (3) of section 440.102, Florida Statutes, is
8 amended to read:

9 440.102 Drug-free workplace program requirements.--The
10 following provisions apply to a drug-free workplace program
11 implemented pursuant to law or to rules adopted by the Agency
12 for Health Care Administration:

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

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

17 1. ~~A general statement~~ of The employer's policy on
18 employee drug use, which must identify:

19 a. The types of drug testing an employee or job
20 applicant may be required to submit to, including
21 reasonable-suspicion drug testing or drug testing conducted on
22 any other basis.

23 b. The actions the employer may take against an
24 employee or job applicant on the basis of a positive confirmed
25 drug test result.

26 2. Notification to ~~A statement~~ advising the employee
27 or job applicant of the existence of this section.

28 3. Provisions ~~A general statement~~ concerning
29 confidentiality.

30 4. Procedures for employees and job applicants to
31 confidentially report to a medical review officer the use of

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1 prescription or nonprescription medications to a medical
2 review officer both before and after being tested.

3 5. A list of the most common medications, by brand
4 name or common name, as applicable, as well as by chemical
5 name, which may alter or affect a drug test. A list of such
6 medications as developed by the Agency for Health Care
7 Administration shall be available to employers through the
8 Division of Workers' Compensation of the Department of Labor
9 and Employment Security.

10 6. The consequences of refusing to submit to a drug
11 test.

12 7. A representative sampling of names, addresses, and
13 telephone numbers of employee assistance programs and local
14 drug rehabilitation programs.

15 8. A statement that an employee or job applicant who
16 receives a positive confirmed test result may contest or
17 explain the result to the medical review officer within 5
18 working days after receiving written notification of the test
19 result; that if an employee's or job applicant's explanation
20 or challenge is unsatisfactory to the medical review officer,
21 the medical review officer shall report a positive test result
22 back to the employer; and that a person may contest the drug
23 test result pursuant to law or to rules adopted by the Agency
24 for Health Care Administration.

25 9. Notification to ~~A statement informing~~ the employee
26 or job applicant of his or her responsibility to notify the
27 laboratory of any administrative or civil action brought
28 pursuant to this section.

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

1 11. Notification ~~A statement~~ regarding any applicable
2 collective bargaining agreement or contract and any appeal
3 rights ~~the right to appeal to the Public Employees Relations~~
4 ~~Commission or applicable court.~~

5 12. Notification to the employee or ~~A statement~~
6 ~~notifying employees and job applicant~~ applicants of his or her
7 ~~their~~ right to consult with a medical review officer for
8 technical information regarding prescription or
9 nonprescription medication.

10 Section 185. Effective January 1, 2002, paragraph (c)
11 of subsection (3) of section 944.35, Florida Statutes, and
12 paragraph (b) of subsection (1) of section 985.4045, Florida
13 Statutes, are repealed.

14 Section 186. The Office of Employee Relations within
15 the Department of Management Services shall coordinate the
16 development and implementation of a transition plan that
17 supports the implementation of this act. The Department of
18 Labor and Employment Security, the Public Employees Relations
19 Commission, and all other state agencies identified by the
20 office shall cooperate fully in developing and implementing
21 the plan and shall dedicate the financial and staff resources
22 that are necessary for such implementation.

23 Section 187. (1) Until July 1, 2001, the Public
24 Employees Relations Commission shall continue to exercise its
25 powers, duties, and functions pursuant to the authority
26 granted it under the Florida Statutes 2000.

27 (2) On and after July 1, 2001, the Public Employees
28 Relations Commission shall continue to exercise its powers,
29 duties, and functions pursuant to this act's amendments which
30 take effect July 1, 2001. As to those cases within the Public
31 Employees Relations Commission jurisdiction that are pending

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1 before the commission on January 1, 2002, the commission shall
2 continue to exercise its authority in order to finalize those
3 existing cases under review and phase out the operation of the
4 commission.

5 (3) The commissioners of the Public Employees
6 Relations Commission transferred to the Office of Employee
7 Relations on January 1, 2002, by this act may continue to
8 exercise their authority as commissioners of the Public
9 Employees Relations Commission solely with respect to those
10 cases pending before the commission on that date, until June
11 30, 2002.

12 (4) After June 30, 2002, the Public Employees
13 Relations Commission shall cease to exist.

14 Section 188. There is appropriated to the Department
15 of Management Services for fiscal year 2000-2001, \$26,208 of
16 nonrecurring general revenue for the purpose of establishing
17 an administrative staff to implement the provisions of this
18 act.

19 Section 189. There are appropriated 18 full-time
20 equivalent positions and \$1,331,289 in recurring general
21 revenue for the purpose of staffing the recurring operations
22 of the Office of Employee Relations. The annualized salary and
23 expense amounts shall not exceed \$2.1 million.

24 Section 190. There is appropriated \$2,885,327 in
25 nonrecurring general revenue for the Public Employees
26 Relations Commission for fiscal year 2001-2002. Any resources
27 not needed shall be placed in reserve by the Executive Office
28 of the Governor pursuant to s. 216.177, Florida Statutes.

29 Section 191. Except as otherwise provided herein, this
30 act shall take effect upon becoming a law.

31

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 remove from the title of the bill: the entire title

4

5 and insert in lieu thereof:

6

A bill to be entitled

7

An act relating to public employees;

8

renumbering parts I, II, III, IV, and V of ch.

9

110, F.S., as parts I, II, III, IV, and V of

10

ch. 109, F.S.; amending and renumbering s.

11

110.107, F.S.; revising definitions; repealing

12

s. 110.108, F.S., relating to pilot projects

13

for agencies seeking managerial flexibility for

14

personnel programs, s. 110.109, F.S., relating

15

to personnel audits of agencies, and s.

16

110.1095, F.S., relating to training programs

17

for supervisors and managers; amending and

18

renumbering s. 110.1099, F.S.; specifying

19

duties of agency heads with respect to

20

education and training opportunities for state

21

employees; amending and renumbering s. 110.112,

22

F.S.; providing policy relating to use of human

23

resources; revising provisions relating to

24

implementation of affirmative action plans by

25

agency heads, state attorneys, and public

26

defenders; amending and renumbering s. 110.113,

27

F.S.; requiring all state employees to

28

participate in the direct deposit program;

29

revising conditions for requesting an

30

exemption; amending and renumbering s. 110.124,

31

F.S.; providing that an employee who is

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1 terminated solely because of attaining age 65
2 may apply to the circuit court for relief if
3 voluntary binding arbitration is not conducted;
4 amending and renumbering s. 110.1245, F.S.;
5 providing for a savings sharing program of
6 awards for certain state agency and judicial
7 branch employees; requiring a report; providing
8 for annual bonus payments to employees;
9 directing agency heads to develop a plan for
10 awarding bonuses and providing requirements
11 with respect thereto; authorizing department
12 heads to incur expenditures for certain awards;
13 repealing s. 110.1246, F.S., which provides for
14 lump-sum bonus payments to employees; amending
15 and renumbering s. 110.131, F.S.; revising the
16 time limitation on employment of
17 other-personal-services temporary employees;
18 requiring approval of the Governor's Office of
19 Policy and Budget for extensions of such
20 limitations; revising exemptions from such
21 limitation; amending and renumbering s.
22 110.203, F.S.; revising definitions; revising
23 the definition of "layoff" to include
24 outsourcing or privatization; creating s.
25 109.2035, F.S.; directing the Department of
26 Management Services, in consultation with
27 specified entities, to develop a model civil
28 service classification and compensation program
29 and providing requirements with respect
30 thereto; directing the department to establish
31 guidelines regarding certain types of pay and

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1 providing duties of agencies with respect
2 thereto; amending and renumbering s. 110.205,
3 F.S.; providing additional positions that are
4 exempt from the Career Service System and
5 included in the Selected Exempt Service;
6 providing that when an employee transfers from
7 the Career Service System to the Selected
8 Exempt Service, unused leave shall carry
9 forward and not be paid out; repealing ss.
10 109.207 and 109.209, F.S., as renumbered by the
11 act, relating to establishment and maintenance
12 of a uniform classification plan and an
13 equitable pay plan and related agency duties;
14 amending and renumbering ss. 110.211 and
15 110.213, F.S.; revising requirements with
16 respect to recruitment and selection; amending
17 and renumbering s. 110.219, F.S.; providing
18 requirements regarding leave benefits for
19 Senior Management Service employees; providing
20 for an annual payout of unused annual leave for
21 career service employees; amending and
22 renumbering s. 110.224, F.S.; revising
23 requirements relating to a review and
24 performance planning system and designating
25 such system a review and performance evaluation
26 system; revising requirements relating to
27 certain information furnished to employees and
28 employee evaluation; amending and renumbering
29 s. 110.227, F.S.; providing that a career
30 service employee other than a law enforcement
31 or correctional officer or a firefighter may be

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1 suspended or dismissed for reasonable cause;
2 providing that reasonable cause shall be
3 determined by the agency head and specifying
4 actions included thereunder; revising certain
5 responsibilities of agency heads; providing
6 that, except with regard to law enforcement or
7 correctional officers or firefighters, rules
8 regarding layoff shall not include "bumping";
9 deleting a requirement that a layoff be
10 conducted within an identified competitive area
11 with regard to employees other than law
12 enforcement or correctional officers or
13 firefighters; providing for appeal of
14 reductions in pay, transfers, layoffs, or
15 demotions to, and hearings regarding suspension
16 or dismissal before, the circuit court, or for
17 voluntary binding arbitration with respect
18 thereto; providing that, for any alleged
19 adverse agency action against an employee other
20 than a law enforcement or correctional officer
21 or a firefighter occurring after a specified
22 date, the employee bears the burden of proof to
23 establish that the agency head abused his or
24 her discretion; creating s. 109.240, F.S.;
25 providing that any permanent career service
26 employee may request voluntary binding
27 arbitration administered by the Office of
28 Employee Relations upon notice of an adverse
29 agency action; providing definitions; providing
30 requirements for such requests; providing for
31 notice to the agency; specifying the employee's

1 burden of proof; providing for arbitrators and
2 their qualifications and authority; providing
3 for employee panels and their qualifications
4 and authority; providing duties of the office;
5 providing for records; providing procedural
6 requirements for arbitration proceedings;
7 providing for rules; providing for application
8 to the circuit court for an order confirming,
9 vacating, or modifying the arbitration
10 decision; providing for immunity; amending and
11 renumbering s. 110.403, F.S.; increasing the
12 limit on the number of Senior Management
13 Service positions; amending and renumbering s.
14 110.602, F.S.; removing the limit on the number
15 of Selected Exempt Service positions; amending
16 and renumbering s. 110.605, F.S.; deleting
17 provisions relating to development of a program
18 of affirmative and positive action for the
19 Selected Exempt Service by the department;
20 amending and renumbering ss. 110.1091,
21 110.1127, 110.117, 110.1227, 110.123,
22 110.12312, 110.1232, 110.129, 110.152,
23 110.1521, 110.1522, 110.1523, 110.161, 110.171,
24 110.191, 110.233, 110.235, 110.401, 110.402,
25 110.406, 110.502, 110.601, and 110.606, F.S.;
26 clarifying and conforming language and
27 correcting cross references; amending ss.
28 20.171, 20.18, 20.21, 20.23, 20.255, 20.315,
29 24.105, 24.122, 68.087, 104.31, 106.082,
30 106.24, 112.044, 112.0805, 112.313, 112.3189,
31 112.363, 121.021, 121.0515, 121.055, 121.35,

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1 215.94, 216.011, 216.251, 231.381, 235.217,
2 240.209, 240.2111, 240.507, 241.002, 242.331,
3 260.0125, 281.02, 287.175, 288.708, 295.07,
4 296.04, 296.34, 311.07, 339.175, 343.74,
5 381.85, 393.0657, 400.19, 400.953, 402.3057,
6 402.55, 402.731, 409.1757, 440.102, 440.4416,
7 443.171, 447.207, 456.048, 471.038, 509.036,
8 570.073, 570.074, 624.307, 627.0623, 627.6488,
9 627.649, 627.6498, 627.6617, 655.019, 943.0585,
10 943.059, 943.22, 944.35, 945.043, 957.03,
11 985.04, 985.05, and 985.4045, F.S.; conforming
12 language and correcting cross references;
13 amending s. 216.262, F.S.; authorizing
14 efficiency awards to state agencies based on
15 changes to authorized positions and providing
16 requirements with respect thereto; amending s.
17 447.201, F.S.; revising the statement of public
18 policy regarding public employees; amending s.
19 447.203, F.S.; revising definitions for
20 purposes of part II of ch. 447, F.S., relating
21 to public employees; repealing s. 447.203(1)(b)
22 and (3)(h), F.S., which define the Public
23 Employees Relations Commission and exempt its
24 employees from the definition of "public
25 employee," and s. 447.205, F.S., which creates
26 the commission, effective June 30, 2002;
27 creating s. 447.204, F.S.; creating an Office
28 of Employee Relations within the Department of
29 Management Services; providing for an executive
30 director, an executive board, a general
31 counsel, and an administrative assistant, and

Amendment No. ____ (for drafter's use only)

1 their qualifications and duties; providing for
2 additional personnel; providing duties of the
3 department; providing powers and duties of the
4 office; amending s. 447.207, F.S.; transferring
5 general powers of the commission and powers
6 relating to collective bargaining to the
7 office; directing the office to provide for
8 voluntary binding arbitration with regard to
9 certain adverse actions and discrimination in
10 lieu of appeals to the commission; providing
11 that the commission shall retain certain
12 authority until June 30, 2002; amending s.
13 447.208, F.S.; providing the employee's burden
14 of proof for alleged adverse agency actions
15 occurring on or after July 1, 2001; repealing
16 s. 447.208, F.S., which provides procedures for
17 appeals to the commission regarding certain
18 adverse agency actions, and s. 447.2085, F.S.,
19 which provides for rules with respect thereto,
20 effective January 1, 2002; amending s. 447.301,
21 F.S.; conforming language; amending ss.
22 447.305, 447.307, 447.308, 447.309, and
23 447.403, F.S.; transferring powers and duties
24 relating to registration and certification of
25 employee organizations, adoption of procedures
26 relating to collective bargaining agreements,
27 and resolution of impasses from the commission
28 to the office; increasing the registration fee;
29 amending s. 447.4095, F.S.; conforming
30 language; amending s. 447.503, F.S.;
31 transferring powers relating to settling of

Amendment No. ____ (for drafter's use only)

1 unfair labor practices disputes from the
2 commission to the office; providing for persons
3 conducting evidentiary hearings; amending s.
4 447.5035, F.S.; providing for enforcement of
5 division orders; amending s. 447.504, F.S.,
6 which provides for judicial review of final
7 orders, to conform; amending s. 447.507, F.S.;
8 transferring powers and duties relating to
9 enforcement of the strike prohibition from the
10 commission to the office; revising conditions
11 under which a person who violates such
12 prohibition may be employed or appointed;
13 amending s. 447.607, F.S.; conforming language;
14 amending s. 20.171, F.S.; conforming language;
15 amending s. 39.202, F.S.; providing for access
16 to certain records by the office; amending s.
17 112.044, F.S., which prohibits age
18 discrimination against public employees;
19 providing for court action by an aggrieved
20 employee if voluntary binding arbitration is
21 not conducted; amending s. 112.0455, F.S., the
22 Drug-Free Workplace Act; providing for appeals
23 with respect to discipline or not being hired
24 under said act to the circuit court rather than
25 the commission, or for voluntary finding
26 arbitration; amending s. 112.215, F.S.;
27 providing for appointment of members of the
28 Deferred Compensation Advisory Council by the
29 executive board of the office rather than the
30 commission; amending s. 112.31895, F.S.;
31 providing for judicial review of notice of

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1 termination of an investigation in connection
2 with the Whistle-blower's Act rather than
3 commission review; amending s. 120.80, F.S.;
4 conforming language; repealing s.
5 125.0108(2)(d), F.S., and amending ss. 376.75,
6 403.718, and 538.11, F.S.; removing provisions
7 which authorize certain actions by the
8 Department of Revenue pursuant to rules of the
9 commission or the Career Service Commission;
10 amending ss. 284.30 and 284.31, F.S.;
11 conforming language; amending ss. 295.11 and
12 295.14, F.S.; providing that the circuit court,
13 rather than the commission, has jurisdiction to
14 enforce provisions relating to employment
15 preference for veterans if voluntary binding
16 arbitration is not appropriate; amending s.
17 415.107, F.S.; providing for access to certain
18 records by the office; amending s. 440.102,
19 F.S.; conforming language; repealing ss.
20 944.35(3)(c) and 985.4045(1)(b), F.S., which
21 provide that violations by Department of
22 Corrections employees of prohibitions against
23 malicious battery and sexual misconduct, and
24 violations by Department of Juvenile Justice
25 employees of the prohibition against sexual
26 misconduct, as determined by the commission,
27 constitute cause for dismissal; directing the
28 office to coordinate a transition plan;
29 specifying transitional powers and duties of
30 the commission and providing that it shall
31 cease to exist June 30, 2002; providing

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Bill No. HB 369

Amendment No. ____ (for drafter's use only)

1 appropriations and authorizing positions;
 2 providing effective dates.
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