

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Ausley offered the following:

**Amendment to Substitute Amendment (824029) (with title amendment)**

On page 38, line 5, through page 137, line 28, remove from the substitute amendment: all of said lines

and insert in lieu thereof:

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and subsection (2) of said section is amended, and, effective July 1, 2001, subsections (1), (3), and (6) of said section are amended, and, effective January 1, 2002, subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

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

(1) Any employee who has permanent status in the career service may only be suspended or dismissed for just cause. Just cause shall include, but not be limited to,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 negligence, inefficiency or inability to perform assigned  
2 duties, insubordination, willful violation of the provisions  
3 of law or agency rules, conduct unbecoming a public employee,  
4 misconduct, habitual drug abuse, or conviction of any crime  
5 involving moral turpitude. Each agency head shall ensure that  
6 all employees of the agency are completely familiar with the  
7 agency's established procedures on disciplinary actions and  
8 grievances.

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

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

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           (b) Layoff procedures shall be developed to establish  
2 the relative merit and fitness of employees and shall include  
3 a formula for uniform application among potentially adversely  
4 affected employees, or, with respect to law enforcement or  
5 correctional officers or firefighters, among all employees in  
6 the competitive area, taking into consideration the type of  
7 appointment, the length of service, and the evaluations of the  
8 employee's performance within the last 5 years of employment.

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

23           (5)

24           (b) In extraordinary situations such as when the  
25 retention of a permanent career service employee would result  
26 in damage to state property, would be detrimental to the best  
27 interest of the state, or would result in injury to the  
28 employee, a fellow employee, or some other person, such  
29 employee may be suspended or dismissed without 10 days' prior  
30 notice, provided that written or oral notice of such action,  
31 evidence of the reasons therefor, and an opportunity to rebut

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 the charges are furnished to the employee prior to such  
2 dismissal or suspension. Such notice may be delivered to the  
3 employee personally or may be sent by certified mail with  
4 return receipt requested. Agency compliance with the foregoing  
5 procedure requiring notice, evidence, and an opportunity for  
6 rebuttal must be substantiated. As of January 1, 2002, any  
7 employee who is suspended or dismissed pursuant to the  
8 provisions of this paragraph shall be entitled to a hearing  
9 before the circuit court, or the aggrieved employee may  
10 request voluntary binding arbitration as provided in s.  
11 109.240 Public Employees Relations Commission or its  
12 designated agent pursuant to s. 447.208, except that such  
13 hearing shall be held no more than 20 days after the filing of  
14 the notice of appeal by the employee. Appeals based on the  
15 protections provided by the Whistle-blower's Act, ss.  
16 112.3187-112.31895, must be filed with the Commission on Human  
17 Relations as provided for in that act.

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

31 (7) The department shall adopt rules for

hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 administration of the grievance process for career service  
 2 employees. Such rules shall establish agency grievance  
 3 procedures, eligibility, filing deadlines, forms, and review  
 4 and evaluation governing the grievance process.

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

8 109.227 Suspensions, dismissals, reductions in pay,  
 9 demotions, layoffs, transfers, and grievances.--

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

30 Section 52. Section 110.233, Florida Statutes, is  
 31 renumbered as section 109.233, Florida Statutes, and paragraph

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 (a) of subsection (4) of said section is amended to read:  
2 109.233 ~~110.233~~ Political activities and unlawful acts  
3 prohibited.--

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

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

22 Section 53. Section 110.235, Florida Statutes, is  
23 renumbered as section 109.235, Florida Statutes, and  
24 subsection (1) of said section is amended to read:

25 109.235 ~~110.235~~ Training.--

26 (1) ~~It is the intent of the Legislature that~~ State  
27 agencies shall implement training programs that encompass  
28 modern management principles, and that provide the framework  
29 to develop human resources through empowerment, training, and  
30 rewards for productivity enhancement; to continuously improve  
31 the quality of services; and to satisfy the expectations of

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 the public.

2 Section 54. Section 109.237, Florida Statutes, is  
3 created to read:

4 109.237 Office of Employee Relations.--

5 (1) There is created within the Department of  
6 Management Services the Office of Employee Relations,  
7 hereinafter referred to as the "office." The Governor shall  
8 appoint an executive director of the office. The executive  
9 director shall serve at the pleasure of and report to the  
10 Governor. The executive director must be a member in good  
11 standing of The Florida Bar, have a minimum of 5 years of  
12 legal experience, and be knowledgeable regarding and have a  
13 background in the laws regarding state employees, the Career  
14 Service System, employee bargaining units, and collective  
15 bargaining. The executive director shall serve on a full-time  
16 basis, and shall personally, or through a representative of  
17 the office, carry out the purposes and functions of the office  
18 in accordance with state and federal law. The executive  
19 director shall be responsible for the administrative functions  
20 of the office. The executive director shall make all planning,  
21 personnel, and budgeting decisions with regard to the office.  
22 The executive director shall be solely responsible for  
23 administering the voluntary binding arbitration program  
24 provided for by s. 109.240. The executive director, or the  
25 executive director's designee, shall be responsible for  
26 establishing and implementing a training and education program  
27 for all the office's employees with regard to their duties and  
28 responsibilities, procedural requirements, and applicable law,  
29 as appropriate for each employee's position.

30 (2) The executive director shall employ a general  
31 counsel and an administrative assistant to meet immediate

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 staffing needs. The executive director, general counsel, and  
2 administrative assistant shall be paid annual salaries to be  
3 fixed by law. Such salaries shall be paid in equal monthly  
4 installments. The executive director, general counsel, and  
5 administrative assistant shall be reimbursed for necessary  
6 travel expenses, as provided in s. 112.061. Effective December  
7 1, 2001, the executive director shall have the authority to  
8 employ such personnel as is necessary to carry out the duties  
9 and responsibilities of the office. These personnel shall be  
10 paid annual salaries fixed by law, in equal monthly  
11 installments, and such personnel shall be reimbursed for  
12 necessary travel expenses as provided in s. 112.061.

13 (3) The office, in the performance of its powers and  
14 duties under this part, shall not be subject to control,  
15 supervision, or direction of the Department of Management  
16 Services. The office shall be a separate budget entity within  
17 the department's legislative budget request.

18 (4) The Department of Management Services shall  
19 provide the necessary office space, furniture, equipment, and  
20 supplies necessary for the startup of the office. The  
21 department shall further provide administrative support and  
22 service to the office to the extent requested by the executive  
23 director within the available resources of the department. The  
24 executive director may request the assistance of the Inspector  
25 General of the Department of Management Services in providing  
26 auditing services, and the Office of General Counsel of the  
27 department may provide assistance in rulemaking and other  
28 matters as needed to assist the office.

29 (5) The office shall make such expenditures, including  
30 expenditures for personal services and rent at the seat of  
31 government and elsewhere, for law books, books of reference,



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 periodicals, furniture, equipment, and supplies, and for  
2 printing and binding, as may be necessary in exercising its  
3 authority and powers and carrying out its duties and  
4 responsibilities. All such expenditures by the office shall be  
5 allowed and paid upon the presentation of itemized vouchers  
6 therefor approved by the executive director.

7 (6) The office may charge for copies of records and  
8 documents as provided for in s. 119.07.

9 (7) The office shall maintain and keep open during  
10 reasonable business hours an office at which its public  
11 records shall be kept. The office may conduct hearings at any  
12 place within the state.

13 (8) The office shall have a seal for authentication of  
14 its orders and proceedings, upon which shall be inscribed the  
15 words "State of Florida--Office of Employee Relations--Seal"  
16 and which shall be judicially noticed.

17 (9) The office is expressly authorized to provide by  
18 rule for, and to destroy, obsolete records of the office.

19 (10) Any hearing held or oral argument heard by the  
20 office pursuant to chapter 120 or this chapter shall be open  
21 to the public.

22 (11) Any hearing held by the office under this part  
23 shall be conducted in accordance with the provisions of ss.  
24 120.569 and 120.57 by an employee of the office, or a person  
25 designated by the executive director, who is a member in good  
26 standing of The Florida Bar.

27 Section 55. (1) Except as otherwise provided,  
28 effective January 1, 2002, section 109.240, Florida Statutes,  
29 is created to read:

30 109.240 Voluntary binding arbitration.--

31 (1) Upon receipt of notice of an adverse agency

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

- 1 action, any permanent career service employee may request  
2 voluntary binding arbitration administered by the Office of  
3 Employee Relations. As used in this section, "adverse agency  
4 action" means the suspension, dismissal, reduction in pay,  
5 demotion, layoff, or transfer of an employee. Any eligible  
6 employee choosing to participate in voluntary binding  
7 arbitration must file a written request for arbitration with  
8 the office no later than 14 days after the receipt of notice  
9 of the adverse agency action.
- 10 (2) The arbitration request must be submitted on a  
11 form prescribed by the office by rule. The form must be signed  
12 by the employee and must include stipulations that:
- 13 (a) The employee is voluntarily participating in  
14 binding arbitration pursuant to this section.
- 15 (b) The arbitration order is final and may not be set  
16 aside except for an error in law that is apparent on the  
17 record.
- 18 (c) The employee will faithfully abide by the  
19 arbitration order unless otherwise determined by a court of  
20 competent jurisdiction.
- 21 (3) Upon receipt of the arbitration request, the  
22 office shall provide written notice to the agency against  
23 which a request is made regarding the employee request for  
24 binding arbitration. The agency must participate in the  
25 requested binding arbitration. Binding arbitration shall not  
26 be conducted pursuant to this section unless the employee  
27 requests it.
- 28 (4) The employer must prove just cause for the adverse  
29 agency action.
- 30 (5)(a) The voluntary binding arbitration shall be  
31 heard and determined by an employee panel that consists of

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 three randomly selected career service employees chosen by the  
2 office in a manner to ensure a balanced representation of  
3 employees from each pay classification. At least one of the  
4 employees selected to serve on an employee panel must be a  
5 member of the same pay classification as the employee  
6 requesting binding arbitration. This paragraph does not apply  
7 to law enforcement or correctional officers or firefighters.

8 (b) With regard to law enforcement or correctional  
9 officers or firefighters, the voluntary binding arbitration  
10 shall be heard and determined by an employee panel that  
11 consists of three career service employees selected as  
12 follows:

13 1. One panel member who is a member of the same pay  
14 classification as the employee requesting the voluntary  
15 binding arbitration, selected by that employee.

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

19 3. One panel member jointly selected by the other two  
20 panel members. If the two panel members do not agree on the  
21 jointly selected panel member, within 10 working days after  
22 the appeal is submitted, the parties shall jointly request the  
23 Federal Mediation and Conciliation Service to furnish a panel  
24 of seven names from which each party shall have the option,  
25 within 5 days of receipt, of striking three names in  
26 alternating fashion. The seventh or remaining name shall serve  
27 as the third panel member. The parties shall jointly notify  
28 the panel member of his or her selection. Either party may  
29 object to all names on the list, provided the objection is  
30 made prior to the commencement of the striking process. If  
31 this occurs, the objecting party may request the Federal

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Mediation and Conciliation Service to furnish another list of  
2 names. No more than two lists may be requested.

3 (c) The employee panel shall receive procedural  
4 direction and legal advice from the arbitrator appointed by  
5 the office.

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

14 (e) The employee panel shall make all findings of fact  
15 and determination of claims. The arbitrator shall draft the  
16 arbitration decision for submission to the members of the  
17 employee panel for their approval and signatures. Unless  
18 otherwise provided in the decision, the decision shall become  
19 final 10 days after its execution by the panel.

20 (6) Any party may be represented by counsel or another  
21 appointed representative. The arbitrator and employee panel  
22 must complete all arbitration of the employee's claims raised  
23 in the request within 60 days after receipt of the claim. The  
24 arbitrator may extend the 60-day period upon request of the  
25 parties or at the request of one party, after a hearing on  
26 that party's request for extension.

27 (7)(a) The arbitrator selected by the office shall not  
28 be an employee within the Career Service System, the Select  
29 Management Service, or the Selected Exempt Service. Each  
30 selected arbitrator must, at a minimum, meet the following  
31 requirements:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           1. Completion of a Florida Supreme Court certified  
2 circuit or county arbitration program, or other arbitration  
3 program approved by the office, in addition to a minimum of 1  
4 day of training in the application of this chapter and chapter  
5 447 and any rules adopted thereunder.

6           2. Compliance with the Code of Ethics for Arbitrators  
7 in Employment Disputes published by the American Arbitration  
8 Association and the American Bar Association in 1977, as  
9 amended.

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

11           (b) The arbitrator shall have authority to commence  
12 and adjourn the arbitration hearing. The arbitrator shall not  
13 have authority to hold any person in contempt or to in any way  
14 impose sanctions against any person. The arbitrator shall  
15 provide assistance to the employee panel on questions of law.

16           (c) The arbitrator shall schedule all arbitration  
17 proceedings, including the date, time, and location of such  
18 proceedings and provide notice of the arbitration proceeding  
19 to the parties at least 5 days in advance of the hearing date,  
20 unless otherwise agreed to by the parties. The arbitrator has  
21 the discretion to grant a continuance for reasonable cause.

22           (d) The arbitrator may set a preliminary conference  
23 and require all parties to file a statement of position prior  
24 to the conference. The statement of position may include  
25 stipulations of the parties to uncontested facts and  
26 applicable law, citations to all governing statutory or  
27 regulatory laws that control the controversy, a list of issues  
28 of fact and law that are in dispute, any proposals designed to  
29 expedite the arbitration process, a list of documents  
30 exchanged by the parties and a schedule for the delivery of  
31 any additional relevant documents, identification of witnesses

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 expected to be called during the arbitration proceeding  
2 accompanied by a short summary of their expected testimony,  
3 and any other matters specified by the arbitrator.

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

7 (a) Supporting the arbitration process, including the  
8 filing and noticing of all arbitration requests, objections,  
9 and other party communications; the selection of the  
10 arbitrator; and the design and operation of the employee panel  
11 pool.

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

14 1. Providing selection notice to all parties, the  
15 arbitrator, and the employee panel participants.

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

24 3. Filling vacancies.

25 4. Compensating arbitrators, provided that an  
26 arbitrator's fees and expenses shall not exceed \$500 per day  
27 for case preparation, prehearing conferences, hearings, and  
28 preparation of the arbitration order.

29 5. Making an electronic recording of each arbitration  
30 proceeding, including preconference hearings, even when a  
31 party chooses to make a stenographic recording of the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 arbitration proceeding at that party's expense.

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

4 (9) The office shall maintain records of each dispute  
5 submitted to voluntary binding arbitration, including the  
6 recordings of the arbitration hearings. All records maintained  
7 by the office under this section shall be public records and  
8 shall be available for inspection upon reasonable notice.

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

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

24 (b) The arbitrator has the power to issue subpoenas,  
25 and to effect discovery on the written request of any party by  
26 any means available to the courts and in the manner provided  
27 in the Florida Rules of Civil Procedure, including the  
28 imposition of sanctions, excluding contempt. Fees for  
29 attendance of witnesses shall be the same as that provided in  
30 civil actions in circuit courts of this state.

31 (c) At all arbitration proceedings, the parties may

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 present oral and written testimony, present witnesses and  
2 evidence relevant to the dispute, cross-examine witnesses, and  
3 be represented by counsel. The arbitrator shall record the  
4 arbitration hearing and shall have the power to administer  
5 oaths.

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

11 (e) The employee panel shall render its decision  
12 within 10 days after the closing of the hearing. The decision  
13 shall be in writing on a form prescribed or adopted by the  
14 office. The arbitrator shall send a copy of the decision to  
15 the parties by registered mail.

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

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

22 1. The exchange and filing of information among the  
23 parties.

24 2. Discovery.

25 3. Offering evidence.

26 4. Calling and excluding witnesses.

27 5. Submitting evidence by affidavit.

28 6. Attendance of the parties and witnesses.

29 7. The order of proceedings.

30 (b) The office may adopt additional rules necessary to  
31 implement this section.



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

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

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

20  
21 If the arbitrator and employee panel fail to state findings or  
22 reasons for the stated decision, or the findings and reasons  
23 are inadequate, the court shall search the record to determine  
24 whether a basis exists to uphold the decision.

25           (13) The office, the arbitrator, and the employee  
26 panel shall have absolute immunity from liability arising from  
27 the performance of their duties while acting within the scope  
28 of their appointed function in any arbitration conducted under  
29 this section.

30           (2) For purposes of rulemaking by the Office of  
31 Employee Relations, subsection (11) of s. 109.240, Florida

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Statutes, as created by this section, shall take effect July  
2 1, 2001.

3 Section 56. Section 110.401, Florida Statutes, is  
4 renumbered as section 109.401, Florida Statutes, and amended  
5 to read:

6 109.401 ~~110.401~~ Declaration of policy.--~~It is the~~  
7 ~~intent of~~ This part creates ~~to create~~ a uniform system for  
8 attracting, retaining, and developing highly competent  
9 senior-level managers at the highest  
10 executive-management-level agency positions in order for the  
11 highly complex programs and agencies of state government to  
12 function effectively, efficiently, and productively. The  
13 Legislature recognizes that senior-level management is an  
14 established profession and that the public interest is best  
15 served by developing and refining the management skills of its  
16 Senior Management Service employees. Accordingly ~~To this end~~,  
17 training and management-development programs are regarded as a  
18 major administrative function within agencies.

19 Section 57. Section 110.402, Florida Statutes, is  
20 renumbered as section 109.402, Florida Statutes, and  
21 subsection (2) of said section is amended to read:

22 109.402 ~~110.402~~ Senior Management Service; creation,  
23 coverage.--

24 (2) The Senior Management Service shall be limited to  
25 those positions which are exempt from the Career Service  
26 System by s. 109.205(2)~~110.205(2)~~and for which the salaries  
27 and benefits are set by the department in accordance with the  
28 rules of the Senior Management Service.

29 Section 58. Section 110.403, Florida Statutes, is  
30 renumbered as section 109.403, Florida Statutes, and amended  
31 to read:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           109.403 ~~110.403~~ Powers and duties of the Department of  
2 Management Services.--

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

7           (a) A system for employing, promoting, or reassigning  
8 managers that is responsive to organizational or program  
9 needs. In no event shall the number of positions included in  
10 the Senior Management Service exceed 0.5 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 Senior Management Service which would exceed the  
14 limitation established in this paragraph. The department  
15 shall report that the limitation has been reached to the  
16 Governor, the President of the Senate, and the Speaker of the  
17 House of Representatives, as soon as practicable after such  
18 event occurs. Employees in the Senior Management Service shall  
19 serve at the pleasure of the agency head and shall be subject  
20 to suspension, dismissal, reduction in pay, demotion,  
21 transfer, or other personnel action at the discretion of the  
22 agency head. Such personnel actions are exempt from the  
23 provisions of chapter 120.

24           (b) A performance appraisal system which shall take  
25 into consideration individual and organizational efficiency,  
26 productivity, and effectiveness.

27           (c) A classification plan and a salary and benefit  
28 plan that provides appropriate incentives for the recruitment  
29 and retention of outstanding management personnel and provides  
30 for salary increases based on performance.

31           (d) A system of rating duties and responsibilities for

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 positions within the Senior Management Service and the  
2 qualifications of candidates for those positions.

3 (e) A system for documenting actions taken on agency  
4 requests for approval of position exemptions and special pay  
5 increases.

6 (f) Requirements regarding recordkeeping by agencies  
7 with respect to Senior Management Service positions. Such  
8 records shall be audited periodically by the department of  
9 ~~Management Services~~ to determine agency compliance with the  
10 provisions of this part and with the department's rules of the  
11 ~~Department of Management Services~~.

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

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

18 (2) The powers, duties, and functions of the  
19 department of ~~Management Services~~ shall include responsibility  
20 for the policy administration of the Senior Management  
21 Service.

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

24 (a) To establish and administer a professional  
25 development program which shall provide for the systematic  
26 development of managerial, executive, or administrative  
27 skills.

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

30 (c) To approve contracts of employing agencies with  
31 persons engaged in the business of conducting multistate

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

17 (4) All policies and procedures adopted by the  
18 department ~~of Management Services~~ regarding the Senior  
19 Management Service shall comply with all federal regulations  
20 necessary to permit the state agencies to be eligible to  
21 receive federal funds.

22 (5) The department ~~of Management Services~~ shall adopt,  
23 by rule, procedures for Senior Management Service employees  
24 that require disclosure to the agency head of any application  
25 for or offer of employment, gift, contractual relationship, or  
26 financial interest with any individual, partnership,  
27 association, corporation, utility, or other organization,  
28 whether public or private, doing business with or subject to  
29 regulation by the agency.

30 Section 59. Effective July 1, 2001, paragraph (a) of  
31 subsection (1) of section 109.403, Florida Statutes, as

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 renumbered and amended by this act, is amended to read:

2           109.403 Powers and duties of the Department of  
3 Management Services.--

4           (1) The department, after approval by the  
5 Administration Commission, shall adopt and amend rules which  
6 provide for:

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

24           Section 60. Section 110.405, Florida Statutes, is  
25 renumbered as section 109.405, Florida Statutes.

26           Section 61. Section 110.406, Florida Statutes, is  
27 renumbered as section 109.406, Florida Statutes, and paragraph  
28 (a) of subsection (2) and subsection (3) of said section are  
29 amended to read:

30           109.406 ~~110.406~~ Senior Management Service; data  
31 collection.--

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

5           (3) To assist in the preparation of the data required  
6 by this section, the secretary may hire a consultant with  
7 expertise in the field of personnel management and may use the  
8 services of the advisory committee authorized in s. 109.405  
9 ~~110.405~~.

10           Section 62. Section 110.501, Florida Statutes, is  
11 renumbered as section 109.501, Florida Statutes.

12           Section 63. Section 110.502, Florida Statutes, is  
13 renumbered as section 109.502, Florida Statutes, and  
14 subsections (2) and (3) of said section are amended to read:

15           109.502 ~~110.502~~ Scope of act; status of volunteers.--

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

25           (3) Every department or agency utilizing the services  
26 of volunteers is hereby authorized to provide such incidental  
27 reimbursement or benefit consistent with the provisions of s.  
28 109.504 ~~110.504~~, including transportation costs, lodging, and  
29 subsistence, recognition, and other accommodations as the  
30 department or agency deems necessary to assist, recognize,  
31 reward, or encourage volunteers in performing their functions.

hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 No department or agency shall expend or authorize an  
2 expenditure therefor in excess of the amount provided for to  
3 the department or agency by appropriation in any fiscal year.

4 Section 64. Sections 110.503 and 110.504, Florida  
5 Statutes, are renumbered as sections 109.503 and 109.504,  
6 Florida Statutes, respectively.

7 Section 65. Section 110.601, Florida Statutes, is  
8 renumbered as section 109.601, Florida Statutes, and amended  
9 to read:

10 109.601 ~~110.601~~ Declaration of policy.--~~It is the~~  
11 ~~purpose of~~ This part creates ~~to create~~ a system of personnel  
12 management the purpose of which is to deliver ~~which ensures to~~  
13 ~~the state the delivery of~~ high-quality performance by those  
14 employees in select exempt classifications by facilitating the  
15 state's ability to attract and retain qualified personnel in  
16 these positions, while also providing sufficient management  
17 flexibility to ensure that the workforce is responsive to  
18 agency needs. The Legislature recognizes that the public  
19 interest is best served by developing and refining the  
20 technical and managerial skills of its Selected Exempt Service  
21 employees, and, to this end, technical training and management  
22 development programs are regarded as a major administrative  
23 function within agencies.

24 Section 66. Section 110.602, Florida Statutes, is  
25 renumbered as section 109.602, Florida Statutes, and amended  
26 to read:

27 109.602 ~~110.602~~ Selected Exempt Service; creation,  
28 coverage.--The Selected Exempt Service is created as a  
29 separate system of personnel administration for select exempt  
30 positions. Such positions shall include, and shall be limited  
31 to, those positions which are exempt from the Career Service



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 System pursuant to s. 109.205(2) and (5)~~110.205(2) and (5)~~  
2 and for which the salaries and benefits are set by the  
3 department in accordance with the rules of the Selected Exempt  
4 Service. The department shall designate all positions included  
5 in the Selected Exempt Service as either  
6 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. Effective July 1, 2001, section 109.602,  
20 Florida Statutes, as renumbered and amended by this act, is  
21 amended to read:

22 109.602 Selected Exempt Service; creation,  
23 coverage.--The Selected Exempt Service is created as a  
24 separate system of personnel administration for select exempt  
25 positions. Such positions shall include, and shall be limited  
26 to, those positions which are exempt from the Career Service  
27 System pursuant to s. 109.205(2) and (5) and for which the  
28 salaries and benefits are set by the department in accordance  
29 with the rules of the Selected Exempt Service. The department  
30 shall designate all positions included in the Selected Exempt  
31 Service as either managerial/policymaking, professional, or

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~nonmanagerial/nonpolicymaking. In no event shall the number of~~  
2 ~~positions included in the Selected Exempt Service, excluding~~  
3 ~~those positions designated as professional or~~  
4 ~~nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total~~  
5 ~~full-time equivalent positions in the career service. The~~  
6 ~~department shall deny approval to establish any position~~  
7 ~~within the Selected Exempt Service which would exceed the~~  
8 ~~limitation established in this section. The department shall~~  
9 ~~report that the limitation has been reached to the Governor,~~  
10 ~~the President of the Senate, and the Speaker of the House of~~  
11 ~~Representatives, as soon as practicable after such event~~  
12 ~~occurs.~~

13           Section 68. Sections 110.603 and 110.604, Florida  
14 Statutes, are renumbered as sections 109.603 and 109.604,  
15 Florida Statutes, respectively.

16           Section 69. Section 110.605, Florida Statutes, is  
17 renumbered as section 109.605, Florida Statutes, and  
18 subsection (1) of said section is amended to read:

19           109.605 ~~110.605~~ Powers and duties; personnel rules,  
20 records, reports, and performance appraisal.--

21           (1) The department shall adopt and administer uniform  
22 personnel rules, records, and reports relating to employees  
23 and positions in the Selected Exempt Service, as well as any  
24 other rules and procedures relating to personnel  
25 administration which are necessary to carry out the purposes  
26 of this part.

27           (a) The department shall develop uniform forms and  
28 instructions to be used in reporting transactions which  
29 involve changes in an employee's salary, status, performance,  
30 leave, fingerprint record, loyalty oath, payroll change, or  
31 appointment action or any additional transactions as the

hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 department may deem appropriate.

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

5 (b)(e) The department shall develop a uniform  
 6 performance appraisal system for employees and positions in  
 7 the Selected Exempt Service covered by a collective bargaining  
 8 agreement. Each employing agency shall develop a performance  
 9 appraisal system for all other employees and positions in the  
 10 Selected Exempt System. Such agency system shall take into  
 11 consideration individual and organizational efficiency,  
 12 productivity, and effectiveness.

13 (c)(d) The employing agency must maintain, on a  
 14 current basis, all records and reports required by applicable  
 15 rules.The department shall periodically audit employing  
 16 agency records to determine compliance with the provisions of  
 17 this part and the rules of the department.

18 (d)(e) The department shall develop a program of  
 19 affirmative and positive actions that will ensure full  
 20 utilization of the rich diversity of Florida's human resources  
 21 ~~women and minorities~~ in Selected Exempt Service positions.

22 Section 70. Section 110.606, Florida Statutes, is  
 23 renumbered as section 109.606, Florida Statutes, and paragraph  
 24 (c) of subsection (2) of said section is amended to read:

25 109.606 ~~110.606~~ Selected Exempt Service; data  
 26 collection.--

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

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

29 1. A pricing analysis based on a market survey of  
 30 positions comparable to those included in the Selected Exempt  
 31 Service and recommendations with respect to whether, and to

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 what extent, revisions to the salary ranges for the Selected  
2 Exempt Service classifications should be implemented.

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

13           Section 71. (1) Sections 109.105 through 109.191,  
14 Florida Statutes, are designated as part I of chapter 109,  
15 Florida Statutes, to be entitled "General State Employment  
16 Provisions."

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

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

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

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

29           Section 72. Paragraph (c) of subsection (2) and  
30 paragraph (d) of subsection (3) of section 20.171, Florida  
31 Statutes, are amended to read:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           20.171 Department of Labor and Employment  
2 Security.--There is created a Department of Labor and  
3 Employment Security. The department shall operate its programs  
4 in a decentralized fashion.

5           (2)

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

15           (3)

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

19           2. The comptroller is the chief financial officer of  
20 the department and shall be a proven, effective administrator  
21 who, by a combination of education and experience, clearly  
22 possesses a broad knowledge of the administrative, financial,  
23 and technical aspects of a complex cost-accounting system.  
24 The comptroller must also have a working knowledge of  
25 generally accepted accounting principles. At a minimum, the  
26 comptroller shall hold an active license to practice public  
27 accounting in this state pursuant to chapter 473 or in any  
28 other state. In addition to the requirements of the Florida  
29 Fiscal Accounting Management Information System Act, the  
30 comptroller is responsible for the development, maintenance,  
31 and modification of an accounting system which will in a

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 timely manner accurately reflect the revenues and expenditures  
2 of the department and which shall include a cost-accounting  
3 system to properly identify, segregate, allocate, and report  
4 department costs. The comptroller shall supervise and direct  
5 preparation of a detailed 36-month forecast of cash and  
6 expenditures and shall be responsible for managing cash and  
7 determining cash requirements. The comptroller shall review  
8 all comparative cost studies which examine the  
9 cost-effectiveness and feasibility of contracting for services  
10 and operations performed by the department. The review shall  
11 state that the study was prepared in accordance with generally  
12 accepted cost-accounting standards applied in a consistent  
13 manner using valid and accurate cost data.

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

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

23 a. The several appropriations available for the use of  
24 the department.

25 b. The specific amounts of each such appropriation  
26 budgeted by the department for each improvement or purpose.

27 c. The apportionment or division of all such  
28 appropriations among the several counties and field offices,  
29 when such apportionment or division is made.

30 d. The amount or portion of each such apportionment  
31 against general contractual and other obligations of the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 department.

2 e. The amount expended and still to be expended in  
3 connection with each contractual and each other obligation of  
4 the department.

5 f. The expense and operating costs of the various  
6 activities of the department.

7 g. The receipts accruing to the department and the  
8 distribution thereof.

9 h. The assets, investments, and liabilities of the  
10 department.

11 i. The cash requirements of the department for a  
12 36-month period.

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

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

17 Section 73. Subsection (3) of section 20.18, Florida  
18 Statutes, is amended to read:

19 20.18 Department of Community Affairs.--There is  
20 created a Department of Community Affairs.

21 (3) Unless otherwise provided by law, the Secretary of  
22 Community Affairs shall appoint the directors or executive  
23 directors of any commission or council assigned to the  
24 department, who shall serve at his or her pleasure as provided  
25 for division directors in s. 109.205 ~~110.205~~. The appointment  
26 or termination by the secretary will be done with the advice  
27 and consent of the commission or council; and the director or  
28 executive director may employ, subject to departmental rules  
29 and procedures, such personnel as may be authorized and  
30 necessary.

31 Section 74. Subsection (6) of section 20.21, Florida

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Statutes, is amended to read:

2           20.21 Department of Revenue.--There is created a  
3 Department of Revenue.

4           (6) Notwithstanding the provisions of s. 109.123  
5 ~~110.123~~, relating to the state group insurance program, the  
6 department may pay, or participate in the payment of, premiums  
7 for health, accident, and life insurance for its full-time  
8 out-of-state employees, pursuant to such rules as it may  
9 adopt, and such payments shall be in addition to the regular  
10 salaries of such full-time out-of-state employees.

11           Section 75. Paragraph (d) of subsection (1), paragraph  
12 (h) of subsection (2), paragraphs (d), (f), (h), and (i) of  
13 subsection (3), paragraphs (c) and (d) of subsection (4), and  
14 subsection (5) of section 20.23, Florida Statutes, are amended  
15 to read:

16           20.23 Department of Transportation.--There is created  
17 a Department of Transportation which shall be a decentralized  
18 agency.

19           (1)

20           (d) Any secretary appointed after July 5, 1989, and  
21 the assistant secretaries shall be exempt from the provisions  
22 of part III of chapter 109 ~~110~~ and shall receive compensation  
23 commensurate with their qualifications and competitive with  
24 compensation for comparable responsibility in the private  
25 sector. When the salary of any assistant secretary exceeds  
26 the limits established in part III of chapter 109 ~~110~~, the  
27 Governor shall approve said salary.

28           (2)

29           (h) The commission shall appoint an executive director  
30 and assistant executive director, who shall serve under the  
31 direction, supervision, and control of the commission. The



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 executive director, with the consent of the commission, shall  
2 employ such staff as are necessary to perform adequately the  
3 functions of the commission, within budgetary limitations.  
4 All employees of the commission are exempt from part II of  
5 chapter 109 ~~110~~ and shall serve at the pleasure of the  
6 commission. The salaries and benefits of all employees of the  
7 commission shall be set in accordance with the Selected Exempt  
8 Service; provided, however, that the commission shall have  
9 complete authority for fixing the salary of the executive  
10 director and assistant executive director.

11 (3)

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

14 a. Developing policy and procedures and monitoring  
15 performance to ensure compliance with these policies and  
16 procedures;

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

19 c. Assessing and ensuring the accuracy of information  
20 within the department's financial management information  
21 systems; and

22 d. Performing other activities of a statewide nature.

23 2. The following offices are established and shall be  
24 headed by a manager, each of whom shall be appointed by and  
25 serve at the pleasure of the secretary. The positions shall be  
26 classified at a level equal to a division director:

27 a. The Office of Administration;

28 b. The Office of Policy Planning;

29 c. The Office of Design;

30 d. The Office of Highway Operations;

31 e. The Office of Right-of-Way;

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           f. The Office of Toll Operations;
- 2           g. The Office of Information Systems; and
- 3           h. The Office of Motor Carrier Compliance.
- 4           3. Other offices may be established in accordance with
- 5 s. 20.04(7). The heads of such offices are exempt from part II
- 6 of chapter 109 ~~110~~. No office or organization shall be created
- 7 at a level equal to or higher than a division without specific
- 8 legislative authority.
- 9           4. During the construction of a major transportation
- 10 improvement project or as determined by the district
- 11 secretary, the department may provide assistance to a business
- 12 entity significantly impacted by the project if the entity is
- 13 a for-profit entity that has been in business for 3 years
- 14 prior to the beginning of construction and has direct or
- 15 shared access to the transportation project being constructed.
- 16 The assistance program shall be in the form of additional
- 17 guarantees to assist the impacted business entity in receiving
- 18 loans pursuant to Title 13 C.F.R. part 120. However, in no
- 19 instance shall the combined guarantees be greater than 90
- 20 percent of the loan. The department shall adopt rules to
- 21 implement this subparagraph.
- 22           (f)1. Within the central office there is created an
- 23 Office of Management and Budget. The head of the Office of
- 24 Management and Budget is responsible to the Assistant
- 25 Secretary for Finance and Administration and is exempt from
- 26 part II of chapter 109 ~~110~~.
- 27           2. The functions of the Office of Management and
- 28 Budget include, but are not limited to:
- 29           a. Preparation of the work program;
- 30           b. Preparation of the departmental budget; and
- 31           c. Coordination of related policies and procedures.

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

24 2. In addition to the authority and responsibilities  
25 herein provided, the inspector general is required to report  
26 to the:

27 a. Secretary whenever the inspector general makes a  
28 preliminary determination that particularly serious or  
29 flagrant problems, abuses, or deficiencies relating to the  
30 administration of programs and operations of the department  
31 have occurred. The secretary shall review and assess the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 correctness of the preliminary determination by the inspector  
2 general. If the preliminary determination is substantiated,  
3 the secretary shall submit such report to the appropriate  
4 committees of the Legislature within 7 calendar days, together  
5 with a report by the secretary containing any comments deemed  
6 appropriate. Nothing in this section shall be construed to  
7 authorize the public disclosure of information which is  
8 specifically prohibited from disclosure by any other provision  
9 of law.

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

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

22           2. The comptroller is the chief financial officer of  
23 the department and must be a proven, effective administrator  
24 who by a combination of education and experience clearly  
25 possesses a broad knowledge of the administrative, financial,  
26 and technical aspects of a complex cost-accounting system.  
27 The comptroller must also have a working knowledge of  
28 generally accepted accounting principles. At a minimum, the  
29 comptroller must hold an active license to practice public  
30 accounting in Florida pursuant to chapter 473 or an active  
31 license to practice public accounting in any other state. In

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

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

25 a. The several appropriations available for the use of  
26 the department;

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

29 c. The apportionment or division of all such  
30 appropriations among the several counties and districts, when  
31 such apportionment or division is made;

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

- 1           d. The amount or portion of each such apportionment  
2 against general contractual and other liabilities then  
3 created;
- 4           e. The amount expended and still to be expended in  
5 connection with each contractual and other obligation of the  
6 department;
- 7           f. The expense and operating costs of the various  
8 activities of the department;
- 9           g. The receipts accruing to the department and the  
10 distribution thereof;
- 11           h. The assets, investments, and liabilities of the  
12 department; and
- 13           i. The cash requirements of the department for a  
14 36-month period.
- 15           4. The comptroller shall maintain a separate account  
16 for each fund administered by the department.
- 17           5. The comptroller shall perform such other related  
18 duties as designated by the department.
- 19           (4)
- 20           (c) Each district secretary may appoint a district  
21 director for planning and programming, a district director for  
22 production, and a district director for operations. These  
23 positions are exempt from part II of chapter 109 ~~110~~.
- 24           (d) Within each district, offices shall be established  
25 for managing major functional responsibilities of the  
26 department. The offices may include planning, design,  
27 construction, right-of-way, maintenance, and public  
28 transportation. The heads of these offices shall be exempt  
29 from part II of chapter 109 ~~110~~.
- 30           (5) Notwithstanding the provisions of s. 109.205  
31 ~~110.205~~, the Department of Management Services is authorized

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 to exempt positions within the Department of Transportation  
 2 which are comparable to positions within the Senior Management  
 3 Service pursuant to s. ~~109.205(2)(i)~~~~110.205(2)(i)~~ or  
 4 positions which are comparable to positions in the Selected  
 5 Exempt Service under s. ~~109.205(2)(1)~~~~110.205(2)(1)~~.

6 Section 76. Subsection (2) of section 20.255, Florida  
 7 Statutes, is amended to read:

8 20.255 Department of Environmental Protection.--There  
 9 is created a Department of Environmental Protection.

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

- 18 1. Office of Chief of Staff,
- 19 2. Office of General Counsel,
- 20 3. Office of Inspector General,
- 21 4. Office of External Affairs,
- 22 5. Office of Legislative and Government Affairs, and
- 23 6. Office of Greenways and Trails.

24 (b) There shall be six administrative districts  
 25 involved in regulatory matters of waste management, water  
 26 resource management, wetlands, and air resources, which shall  
 27 be headed by managers, each of whom is to be appointed by and  
 28 serve at the pleasure of the secretary. Divisions of the  
 29 department may have one assistant or two deputy division  
 30 directors, as required to facilitate effective operation.

31



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

6 Section 77. Paragraph (b) of subsection (3) and  
7 paragraph (e) of subsection (6) of section 20.315, Florida  
8 Statutes, are amended to read:

9 20.315 Department of Corrections.--There is created a  
10 Department of Corrections.

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

24 (b) The secretary shall appoint a general counsel and  
25 an inspector general, who are exempt from part II of chapter  
26 109 ~~110~~ and are included in the Senior Management Service.

27 (6) FLORIDA CORRECTIONS COMMISSION.--

28 (e) The commission shall appoint an executive director  
29 and an assistant executive director, who shall serve under the  
30 direction, supervision, and control of the commission. The  
31 executive director, with the consent of the commission, shall

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

14 Section 78. Paragraph (d) of subsection (20) of  
15 section 24.105, Florida Statutes, is amended to read:

16 24.105 Powers and duties of department.--The  
17 department shall:

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

20 (d) The department shall establish and maintain a  
21 personnel program for its employees, including a personnel  
22 classification and pay plan which may provide any or all of  
23 the benefits provided in the Senior Management Service or  
24 Selected Exempt Service. Each officer or employee of the  
25 department shall be a member of the Florida Retirement System.  
26 The retirement class of each officer or employee shall be the  
27 same as other persons performing comparable functions for  
28 other agencies. Employees of the department shall serve at  
29 the pleasure of the secretary and shall be subject to  
30 suspension, dismissal, reduction in pay, demotion, transfer,  
31 or other personnel action at the discretion of the secretary.

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Such personnel actions are exempt from the provisions of  
2 chapter 120. All employees of the department are exempt from  
3 the Career Service System provided in chapter 109 ~~110~~ and,  
4 notwithstanding the provisions of s. 109.205(5)~~110.205(5)~~,  
5 are not included in either the Senior Management Service or  
6 the Selected Exempt Service. However, all employees of the  
7 department are subject to all standards of conduct adopted by  
8 rule for career service and senior management employees  
9 pursuant to chapter 109 ~~110~~. In the event of a conflict  
10 between standards of conduct applicable to employees of the  
11 Department of the Lottery the more restrictive standard shall  
12 apply. Interpretations as to the more restrictive standard may  
13 be provided by the Commission on Ethics upon request of an  
14 advisory opinion pursuant to s. 112.322(3)(a), for purposes of  
15 this subsection the opinion shall be considered final action.

16 Section 79. Paragraph (d) of subsection (4) of section  
17 24.122, Florida Statutes, is amended to read:

18 24.122 Exemption from taxation; state preemption;  
19 inapplicability of other laws.--

20 (4) Any state or local law providing any penalty,  
21 disability, restriction, or prohibition for the possession,  
22 manufacture, transportation, distribution, advertising, or  
23 sale of any lottery ticket, including chapter 849, shall not  
24 apply to the tickets of the state lottery operated pursuant to  
25 this act; nor shall any such law apply to the possession of a  
26 ticket issued by any other government-operated lottery. In  
27 addition, activities of the department under this act are  
28 exempt from the provisions of:

29 (d) Section 109.131 ~~110.131~~, relating to other  
30 personal services.

31 Section 80. Subsection (1) of section 68.087, Florida

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Statutes, is amended to read:

2 68.087 Exemptions to civil actions.--

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

12 Section 81. Subsection (3) of section 104.31, Florida  
13 Statutes, is amended to read:

14 104.31 Political activities of state, county, and  
15 municipal officers and employees.--

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

23 Section 82. Subsection (3) of section 106.082, Florida  
24 Statutes, is amended to read:

25 106.082 Commissioner of Agriculture candidates;  
26 campaign contribution limits.--

27 (3) No employee of the Department of Agriculture may  
28 solicit a campaign contribution for any candidate for the  
29 office of Commissioner of Agriculture from any person or  
30 business who is licensed, inspected, or otherwise authorized  
31 to do business as a food outlet or convenience store pursuant

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 to chapter 500; or any director, officer, lobbyist, or  
2 controlling interest of that person; or any political  
3 committee or committee of continuous existence that represents  
4 that person. For purposes of this section, "employee of the  
5 department" means any person employed in the Department of  
6 Agriculture holding a position in the Senior Management  
7 Service as defined in s. 109.402 ~~110.402~~; any person holding a  
8 position in the Selected Exempt Service as defined in s.  
9 109.602 ~~110.602~~; any person having authority over food outlet  
10 or convenience store regulation, or inspection supervision; or  
11 any person, hired on a contractual basis, having the power  
12 normally conferred upon such person, by whatever title.

13 Section 83. Subsection (4) of section 106.24, Florida  
14 Statutes, is amended to read:

15 106.24 Florida Elections Commission; membership;  
16 powers; duties.--

17 (4) The commission shall appoint an executive  
18 director, who shall serve under the direction, supervision,  
19 and control of the commission. The executive director, with  
20 the consent of the commission, shall employ such staff as are  
21 necessary to adequately perform the functions of the  
22 commission, within budgetary limitations. All employees,  
23 except the executive director and attorneys, are subject to  
24 part II of chapter 109 ~~110~~. The executive director shall  
25 serve at the pleasure of the commission and be subject to part  
26 III of chapter 109 ~~110~~, except that the commission shall have  
27 complete authority for setting the executive director's  
28 salary. Attorneys employed by the commission shall be subject  
29 to part V of chapter 109 ~~110~~.

30 Section 84. Subsection (4) of section 112.044, Florida  
31 Statutes, is amended to read:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           112.044 Public employers, employment agencies, labor  
2 organizations; discrimination based on age prohibited;  
3 exceptions; remedy.--

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

16           Section 85. Section 112.0805, Florida Statutes, is  
17 amended to read:

18           112.0805 Employer notice of insurance eligibility to  
19 employees who retire.--Any employer who provides insurance  
20 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify  
21 those employees who retire of their eligibility to participate  
22 in either the same group insurance plan or self-insurance plan  
23 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the  
24 insurance coverage as provided by this law.

25           Section 86. Paragraph (a) of subsection (9) of section  
26 112.313, Florida Statutes, is amended to read:

27           112.313 Standards of conduct for public officers,  
28 employees of agencies, and local government attorneys.--

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

31           (a)1. It is the intent of the Legislature to implement

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 by statute the provisions of s. 8(e), Art. II of the State  
2 Constitution relating to legislators, statewide elected  
3 officers, appointed state officers, and designated public  
4 employees.

5 2. As used in this paragraph:

6 a. "Employee" means:

7 (I) Any person employed in the executive or  
8 legislative branch of government holding a position in the  
9 Senior Management Service as defined in s. 109.402 ~~110.402~~ or  
10 any person holding a position in the Selected Exempt Service  
11 as defined in s. 109.602 ~~110.602~~ or any person having  
12 authority over policy or procurement employed by the  
13 Department of the Lottery.

14 (II) The Auditor General, the Sergeant at Arms and  
15 Secretary of the Senate, and the Sergeant at Arms and Clerk of  
16 the House of Representatives.

17 (III) The executive director of the Legislative  
18 Committee on Intergovernmental Relations and the executive  
19 director and deputy executive director of the Commission on  
20 Ethics.

21 (IV) An executive director, staff director, or deputy  
22 staff director of each joint committee, standing committee, or  
23 select committee of the Legislature; an executive director,  
24 staff director, executive assistant, analyst, or attorney of  
25 the Office of the President of the Senate, the Office of the  
26 Speaker of the House of Representatives, the Senate Majority  
27 Party Office, Senate Minority Party Office, House Majority  
28 Party Office, or House Minority Party Office; or any person,  
29 hired on a contractual basis, having the power normally  
30 conferred upon such persons, by whatever title.

31 (V) The Chancellor and Vice Chancellors of the State

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 University System; the general counsel to the Board of  
2 Regents; and the president, vice presidents, and deans of each  
3 state university.

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

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

13 c. "State agency" means an entity of the legislative,  
14 executive, or judicial branch of state government over which  
15 the Legislature exercises plenary budgetary and statutory  
16 control.

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

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



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           5. Any person violating this paragraph shall be  
2 subject to the penalties provided in s. 112.317 and a civil  
3 penalty of an amount equal to the compensation which the  
4 person receives for the prohibited conduct.

5           6. This paragraph is not applicable to:

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

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

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

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

17           e. Any appointed state officer whose term of office  
18 began before January 1, 1995, unless reappointed to that  
19 office on or after January 1, 1995.

20           Section 87. Paragraph (a) of subsection (5) of section  
21 112.3189, Florida Statutes, is amended to read:

22           112.3189 Investigative procedures upon receipt of  
23 whistle-blower information from certain state employees.--

24           (5)(a) If the Chief Inspector General or agency  
25 inspector general under subsection (3) determines that the  
26 information disclosed is the type of information described in  
27 s. 112.3187(5), that the source of the information is from a  
28 person who is an employee or former employee of, or an  
29 applicant for employment with, a state agency, as defined in  
30 s. 216.011, and that the information disclosed demonstrates  
31 reasonable cause to suspect that an employee or agent of an

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 agency or independent contractor has violated any federal,  
2 state, or local law, rule, or regulation, thereby creating a  
3 substantial and specific danger to the public's health,  
4 safety, or welfare, or has committed an act of gross  
5 mismanagement, malfeasance, misfeasance, gross waste of public  
6 funds, or gross neglect of duty, the Chief Inspector General  
7 or agency inspector general making such determination shall  
8 then conduct an investigation, unless the Chief Inspector  
9 General or the agency inspector general determines, within 30  
10 days after receiving the allegations from the complainant,  
11 that such investigation is unnecessary. For purposes of this  
12 subsection, the Chief Inspector General or the agency  
13 inspector general shall consider the following factors, but is  
14 not limited to only the following factors, when deciding  
15 whether the investigation is not necessary:

- 16 1. The gravity of the disclosed information compared  
17 to the time and expense of an investigation.
- 18 2. The potential for an investigation to yield  
19 recommendations that will make state government more efficient  
20 and effective.
- 21 3. The benefit to state government to have a final  
22 report on the disclosed information.
- 23 4. Whether the alleged whistle-blower information  
24 primarily concerns personnel practices that may be  
25 investigated under chapter 109 ~~110~~.
- 26 5. Whether another agency may be conducting an  
27 investigation and whether any investigation under this section  
28 could be duplicative.
- 29 6. The time that has elapsed between the alleged event  
30 and the disclosure of the information.

31 Section 88. Subsection (2) of section 112.363, Florida

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Statutes, is amended to read:

2 112.363 Retiree health insurance subsidy.--

3 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE

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

26 Section 89. Effective July 1, 2001, paragraph (a) of  
27 subsection (2) of section 112.363, Florida Statutes, as  
28 amended by chapter 2000-169, Laws of Florida, is amended to  
29 read:

30 112.363 Retiree health insurance subsidy.--

31 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 SUBSIDY.--

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

11 Section 90. Subsection (38) of section 121.021,  
12 Florida Statutes, is amended to read:

13 121.021 Definitions.--The following words and phrases  
14 as used in this chapter have the respective meanings set forth  
15 unless a different meaning is plainly required by the context:

16 (38) "Continuous service" means creditable service as  
17 a member, beginning with the first day of employment with an  
18 employer covered under a state-administered retirement system  
19 consolidated herein and continuing for as long as the member  
20 remains in an employer-employee relationship with an employer  
21 covered under this chapter. An absence of 1 calendar month or  
22 more from an employer's payroll shall be considered a break in  
23 continuous service, except for periods of absence during which  
24 an employer-employee relationship continues to exist and such  
25 period of absence is creditable under this chapter or under  
26 one of the existing systems consolidated herein. However, a  
27 law enforcement officer as defined in s. 121.0515(2)(a) who  
28 was a member of a state-administered retirement system under  
29 chapter 122 or chapter 321 and who resigned and was  
30 subsequently reemployed in a law enforcement position within  
31 12 calendar months of such resignation by an employer under

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 such state-administered retirement system shall be deemed to  
2 have not experienced a break in service. Further, with respect  
3 to a state-employed law enforcement officer who meets the  
4 criteria specified in s. 121.0515(2)(a), if the absence from  
5 the employer's payroll is the result of a "layoff" as defined  
6 in s. 109.203(24)~~110.203(24)~~ or a resignation to run for an  
7 elected office that meets the criteria specified in s.  
8 121.0515(2)(a), no break in continuous service shall be deemed  
9 to have occurred if the member is reemployed as a state law  
10 enforcement officer or is elected to an office which meets the  
11 criteria specified in s. 121.0515(2)(a) within 12 calendar  
12 months after the date of the layoff or resignation,  
13 notwithstanding the fact that such period of layoff or  
14 resignation is not creditable service under this chapter. A  
15 withdrawal of contributions will constitute a break in  
16 service. Continuous service also includes past service  
17 purchased under this chapter, provided such service is  
18 continuous within this definition and the rules established by  
19 the administrator. The administrator may establish  
20 administrative rules and procedures for applying this  
21 definition to creditable service authorized under this  
22 chapter. Any correctional officer, as defined in s. 943.10,  
23 whose participation in the state-administered retirement  
24 system is terminated due to the transfer of a county detention  
25 facility through a contractual agreement with a private entity  
26 pursuant to s. 951.062, shall be deemed an employee with  
27 continuous service in the Special Risk Class, provided return  
28 to employment with the former employer takes place within 3  
29 years due to contract termination or the officer is employed  
30 by a covered employer in a special risk position within 1 year  
31 after his or her initial termination of employment by such

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 transfer of its detention facilities to the private entity.

2 Section 91. Paragraph (b) of subsection (3) of section  
3 121.0515, Florida Statutes, is amended to read:

4 121.0515 Special risk membership.--

5 (3) PROCEDURE FOR DESIGNATING.--

6 (b)1. Applying the criteria set forth in this section,  
7 the Department of Management Services shall specify which  
8 current and newly created classes of positions under the  
9 uniform classification plan established pursuant to chapter  
10 109 ~~110~~ entitle the incumbents of positions in those classes  
11 to membership in the Special Risk Class. Only employees  
12 employed in the classes so specified shall be special risk  
13 members.

14 2. When a class is not specified by the department as  
15 provided in subparagraph 1., the employing agency may petition  
16 the State Retirement Commission for approval in accordance  
17 with s. 121.23.

18 Section 92. Paragraph (a) of subsection (1) of section  
19 121.055, Florida Statutes, is amended to read:

20 121.055 Senior Management Service Class.--There is  
21 hereby established a separate class of membership within the  
22 Florida Retirement System to be known as the "Senior  
23 Management Service Class," which shall become effective  
24 February 1, 1987.

25 (1)(a) Participation in the Senior Management Service  
26 Class shall be limited to and compulsory for any member of the  
27 Florida Retirement System who holds a position in the Senior  
28 Management Service of the State of Florida, established by  
29 part III of chapter 109 ~~110~~, unless such member elects, within  
30 the time specified herein, to participate in the Senior  
31 Management Service Optional Annuity Program as established in

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 subsection (6).

2 Section 93. Paragraph (a) of subsection (2) of section  
3 121.35, Florida Statutes, is amended to read:

4 121.35 Optional retirement program for the State  
5 University System.--

6 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL  
7 PROGRAM.--

8 (a) Participation in the optional retirement program  
9 provided by this section shall be limited to persons who are  
10 otherwise eligible for membership in the Florida Retirement  
11 System; who are employed or appointed for no less than one  
12 academic year; and who are employed in one of the following  
13 State University System positions:

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

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

20 3. The Chancellor and the university presidents.

21 Section 94. Subsection (5) of section 215.94, Florida  
22 Statutes, is amended to read:

23 215.94 Designation, duties, and responsibilities of  
24 functional owners.--

25 (5) The Department of Management Services shall be the  
26 functional owner of the Cooperative Personnel Employment  
27 Subsystem. The department shall design, implement, and  
28 operate the subsystem in accordance with the provisions of ss.  
29 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall  
30 include, but shall not be limited to, functions for:

31 (a) Maintenance of employee and position data,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 including funding sources and percentages and salary lapse.  
2 The employee data shall include, but not be limited to,  
3 information to meet the payroll system requirements of the  
4 Department of Banking and Finance and to meet the employee  
5 benefit system requirements of the Department of Management  
6 Services.

7 (b) Recruitment and examination.

8 (c) Time reporting.

9 (d) Collective bargaining.

10 Section 95. Subsection (2) of section 216.011, Florida  
11 Statutes, is amended to read:

12 216.011 Definitions.--

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

16 Section 96. Paragraph (a) of subsection (2) of section  
17 216.251, Florida Statutes, is amended to read:

18 216.251 Salary appropriations; limitations.--

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

22 1. Within the classification and pay plans provided  
23 for in chapter 109 ~~110~~.

24 2. Within the classification and pay plans established  
25 by the Board of Trustees for the Florida School for the Deaf  
26 and the Blind of the Department of Education and approved by  
27 the State Board of Education for academic and academic  
28 administrative personnel.

29 3. Within the classification and pay plan approved and  
30 administered by the Board of Regents for those positions in  
31 the State University System.



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           4. Within the classification and pay plan approved by  
2 the President of the Senate and the Speaker of the House of  
3 Representatives, as the case may be, for employees of the  
4 Legislature.

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

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

10           Section 97. Section 231.381, Florida Statutes, is  
11 amended to read:

12           231.381 Transfer of sick leave and annual leave.--In  
13 implementing the provisions of ss. 230.23(4)(n) and  
14 402.22(1)(d), educational personnel in Department of Children  
15 and Family Services residential care facilities who are  
16 employed by a district school board may request, and the  
17 district school board shall accept, a lump-sum transfer of  
18 accumulated sick leave for such personnel to the maximum  
19 allowed by policies of the district school board,  
20 notwithstanding the provisions of s. 109.122 ~~110.122~~.

21 Educational personnel in Department of Children and Family  
22 Services residential care facilities who are employed by a  
23 district school board under the provisions of s. 402.22(1)(d)  
24 may request, and the district school board shall accept, a  
25 lump-sum transfer of accumulated annual leave for each person  
26 employed by the district school board in a position in the  
27 district eligible to accrue vacation leave under policies of  
28 the district school board.

29           Section 98. Paragraph (c) of subsection (1) of section  
30 235.217, Florida Statutes, is amended to read:

31           235.217 SMART (Soundly Made, Accountable, Reasonable,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 and Thrifty) Schools Clearinghouse.--

2 (1)

3 (c) The clearinghouse is assigned to the Department of  
4 Management Services for administrative and fiscal  
5 accountability purposes, but it shall otherwise function  
6 independently of the control and direction of the department,  
7 except as otherwise provided in chapters 109 ~~110~~, 255, and 287  
8 for agencies of the executive branch.

9 Section 99. Paragraph (f) of subsection (3) of section  
10 240.209, Florida Statutes, is amended to read:

11 240.209 Board of Regents; powers and duties.--

12 (3) The board shall:

13 (f) Establish and maintain systemwide personnel  
14 programs for all State University System employees, including  
15 a systemwide personnel classification and pay plan,  
16 notwithstanding provisions of law that grant authority to the  
17 Department of Management Services over such programs for state  
18 employees. The board shall consult with the legislative  
19 appropriations committees regarding any major policy changes  
20 related to classification and pay which are in conflict with  
21 those policies in effect for career service employees with  
22 similar job classifications and responsibilities. The board  
23 may adopt rules relating to the appointment, employment, and  
24 removal of personnel which delegate its authority to the  
25 Chancellor or the universities. The board shall submit, in a  
26 manner prescribed by law, any reports concerning State  
27 University System personnel programs as shall be required of  
28 the Department of Management Services for other state  
29 employees. The Department of Management Services shall retain  
30 authority over State University System employees for programs  
31 established in ss. 109.116, 109.123, 109.1232, 109.1234, and

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~109.1238 110.116, 110.123, 110.1232, 110.1234, and 110.1238~~  
2 and in chapters 121, 122, and 238. The board shall adopt rules  
3 to provide for a coordinated, efficient systemwide program and  
4 shall delegate to the universities authority for implementing  
5 the program consistent with these coordinating rules so  
6 adopted and applicable collective bargaining agreements. The  
7 salary rate controls for positions in budgets under the Board  
8 of Regents shall separately delineate the general faculty and  
9 all other categories.

10 Section 100. Paragraph (a) of subsection (1) of  
11 section 240.2111, Florida Statutes, is amended to read:

12 240.2111 Employee recognition program.--

13 (1)(a) Notwithstanding the provisions of s. 109.1245  
14 ~~110.1245~~, the Board of Regents and each university shall  
15 promulgate rules for an employee recognition program which  
16 provides for the following components:

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

24 2. A satisfactory service component to recognize  
25 employees who have achieved increments of 5 continuous years  
26 of satisfactory service to the Board of Regents, university,  
27 or state in appreciation and recognition of such service. No  
28 cash award granted under the satisfactory service component  
29 shall exceed \$50, excluding applicable taxes.

30 Section 101. Section 240.507, Florida Statutes, is  
31 amended to read:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           240.507 Extension personnel; federal health insurance  
 2 programs notwithstanding the provisions of s. 109.123  
 3 ~~110.123~~.--The Institute of Food and Agricultural Sciences at  
 4 the University of Florida is authorized to pay the employer's  
 5 share of premiums to the Federal Health Benefits Insurance  
 6 Program from its appropriated budget for any cooperative  
 7 extension employee of the institute having both state and  
 8 federal appointments and participating in the Federal Civil  
 9 Service Retirement System.

10           Section 102. Subsection (9) of section 241.002,  
 11 Florida Statutes, is amended to read:

12           241.002 Duties of the Department of Education.--The  
 13 duties of the Department of Education concerning distance  
 14 learning include, but are not limited to, the duty to:

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

19  
 20 Nothing in ss. 241.001-241.004 shall be construed to abrogate,  
 21 supersede, alter, or amend the powers and duties of any state  
 22 agency, district school board, community college board of  
 23 trustees, the State Board of Community Colleges, or the Board  
 24 of Regents.

25           Section 103. Paragraph (b) of subsection (6) of  
 26 section 242.331, Florida Statutes, is amended to read:

27           242.331 Florida School for the Deaf and the Blind;  
 28 board of trustees.--

29           (6) The board of trustees shall:

30           (b) Administer and maintain personnel programs for all  
 31 employees of the board of trustees and the Florida School for

hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 the Deaf and the Blind who shall be state employees, including  
 2 the personnel classification and pay plan established in  
 3 accordance with ss. 109.205(2)(d)~~110.205(2)(d)~~ and  
 4 216.251(2)(a)2. for academic and academic administrative  
 5 personnel, the provisions of chapter 109 ~~110~~, and the  
 6 provisions of law that grant authority to the Department of  
 7 Management Services over such programs for state employees.

8 Section 104. Subsection (2) of section 260.0125,  
 9 Florida Statutes, is amended to read:

10 260.0125 Limitation on liability of private landowners  
 11 whose property is designated as part of the statewide system  
 12 of greenways and trails.--

13 (2) Any private landowner who consents to designation  
 14 of his or her land as part of the statewide system of  
 15 greenways and trails pursuant to s. 260.016(2)(d) without  
 16 compensation shall be considered a volunteer, as defined in s.  
 17 109.501 ~~110.501~~, and shall be covered by state liability  
 18 protection pursuant to s. 768.28, including s. 768.28(9).

19 Section 105. Paragraph (a) of subsection (4) of  
 20 section 281.02, Florida Statutes, is amended to read:

21 281.02 Powers and duties of the Department of  
 22 Management Services, Florida Capitol Police.--The Department  
 23 of Management Services, Florida Capitol Police, has the  
 24 following powers and duties:

25 (4) To employ:

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

31 Section 106. Section 287.175, Florida Statutes, is

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 amended to read:

2           287.175 Penalties.--A violation of this part or a rule  
3 adopted hereunder, pursuant to applicable constitutional and  
4 statutory procedures, constitutes misuse of public position as  
5 defined in s. 112.313(6), and is punishable as provided in s.  
6 112.317. The Comptroller shall report incidents of suspected  
7 misuse to the Commission on Ethics, and the commission shall  
8 investigate possible violations of this part or rules adopted  
9 hereunder when reported by the Comptroller, notwithstanding  
10 the provisions of s. 112.324. Any violation of this part or a  
11 rule adopted hereunder shall be presumed to have been  
12 committed with wrongful intent, but such presumption is  
13 rebuttable. Nothing in this section is intended to deny  
14 rights provided to career service employees by s. 109.227  
15 ~~110.227~~.

16           Section 107. Subsection (2) of section 288.708,  
17 Florida Statutes, is amended to read:

18           288.708 Executive director; employees.--

19           (2) The executive director and all employees of the  
20 board shall be exempt from the provisions of part II of  
21 chapter 109 ~~110~~, and the executive director shall be subject  
22 to the provisions of part III ~~IV~~ of chapter 109 ~~110~~.

23           Section 108. Paragraph (a) of subsection (4) of  
24 section 295.07, Florida Statutes, is amended to read:

25           295.07 Preference in appointment and retention.--

26           (4) The following positions are exempt from this  
27 section:

28           (a) Those positions that are exempt from the state  
29 Career Service System under s. 109.205(2)~~110.205(2)~~; however,  
30 all positions under the University Support Personnel System of  
31 the State University System as well as all Career Service

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 System positions under the Florida Community College System  
2 and the School for the Deaf and the Blind are included.

3 Section 109. Subsection (3) and paragraph (b) of  
4 subsection (4) of section 296.04, Florida Statutes, are  
5 amended to read:

6 296.04 Administrator; duties and qualifications;  
7 responsibilities.--

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

19 (4)

20 (b) All employees who fill authorized and established  
21 positions appropriated for the home shall be state employees.  
22 The department shall classify such employees in the manner  
23 prescribed in chapter 109 ~~110~~.

24 Section 110. Subsection (1) and paragraph (b) of  
25 subsection (4) of section 296.34, Florida Statutes, are  
26 amended to read:

27 296.34 Administrator; qualifications, duties, and  
28 responsibilities.--

29 (1) The director shall appoint an administrator of the  
30 home who shall be the chief executive of the home. The  
31 position shall be assigned to the Selected Exempt Service

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 under part V of chapter 109 ~~110~~. The director shall give  
2 preference in appointment as provided in ss. 295.07 and  
3 295.085 to applicants for the position of administrator.

4 (4)

5 (b) All employees who fill authorized and established  
6 positions appropriated for the home shall be state employees.  
7 The department shall classify such employees in the manner  
8 prescribed in chapter 109 ~~110~~.

9 Section 111. Subsection (5) of section 311.07, Florida  
10 Statutes, is amended to read:

11 311.07 Florida seaport transportation and economic  
12 development funding.--

13 (5) Any port which receives funding under the program  
14 shall institute procedures to ensure that jobs created as a  
15 result of the state funding shall be subject to equal  
16 opportunity hiring practices in the manner provided in s.  
17 109.112 ~~110.112~~.

18 Section 112. Paragraph (c) of subsection (10) of  
19 section 339.175, Florida Statutes, is amended to read:

20 339.175 Metropolitan planning organization.--It is the  
21 intent of the Legislature to encourage and promote the safe  
22 and efficient management, operation, and development of  
23 surface transportation systems that will serve the mobility  
24 needs of people and freight within and through urbanized areas  
25 of this state while minimizing transportation-related fuel  
26 consumption and air pollution. To accomplish these objectives,  
27 metropolitan planning organizations, referred to in this  
28 section as M.P.O.'s, shall develop, in cooperation with the  
29 state and public transit operators, transportation plans and  
30 programs for metropolitan areas. The plans and programs for  
31 each metropolitan area must provide for the development and



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 integrated management and operation of transportation systems  
2 and facilities, including pedestrian walkways and bicycle  
3 transportation facilities that will function as an intermodal  
4 transportation system for the metropolitan area, based upon  
5 the prevailing principles provided in s. 334.046(1). The  
6 process for developing such plans and programs shall provide  
7 for consideration of all modes of transportation and shall be  
8 continuing, cooperative, and comprehensive, to the degree  
9 appropriate, based on the complexity of the transportation  
10 problems to be addressed.

11 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY  
12 COUNCIL.--

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

15 1. Enter into contracts with individuals, private  
16 corporations, and public agencies.

17 2. Acquire, own, operate, maintain, sell, or lease  
18 personal property essential for the conduct of business.

19 3. Accept funds, grants, assistance, gifts, or  
20 bequests from private, local, state, or federal sources.

21 4. Establish bylaws and adopt rules pursuant to ss.  
22 120.536(1) and 120.54 to implement provisions of law  
23 conferring powers or duties upon it.

24 5. Assist M.P.O.'s in carrying out the urbanized area  
25 transportation planning process by serving as the principal  
26 forum for collective policy discussion pursuant to law.

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

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

10           8. Adopt an agency strategic plan that provides the  
 11 priority directions the agency will take to carry out its  
 12 mission within the context of the state comprehensive plan and  
 13 any other statutory mandates and directions given to the  
 14 agency.

15           Section 113. Subsection (4) of section 343.74, Florida  
 16 Statutes, is amended to read:

17           343.74 Powers and duties.--

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

22           Section 114. Paragraph (e) of subsection (3) of  
 23 section 381.85, Florida Statutes, is amended to read:

24           381.85 Biomedical and social research.--

25           (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL  
 26 RESEARCH.--

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

31           Section 115. Section 393.0657, Florida Statutes, is

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 amended to read:

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

17           Section 116. Subsection (3) of section 400.19, Florida  
18 Statutes, is amended to read:

19           400.19 Right of entry and inspection.--

20           (3) The agency shall every 15 months conduct at least  
21 one unannounced inspection to determine compliance by the  
22 licensee with statutes, and with rules promulgated under the  
23 provisions of those statutes, governing minimum standards of  
24 construction, quality and adequacy of care, and rights of  
25 residents. The agency shall verify through subsequent  
26 inspection that any deficiency identified during the annual  
27 inspection is corrected. However, the agency may verify the  
28 correction of a class III deficiency unrelated to resident  
29 rights or resident care without reinspecting the facility if  
30 adequate written documentation has been received from the  
31 facility, which provides assurance that the deficiency has

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 | been corrected. The giving or causing to be given of advance  
2 | notice of such unannounced inspections by an employee of the  
3 | agency to any unauthorized person shall constitute cause for  
4 | suspension of not fewer than 5 working days according to the  
5 | provisions of chapter 109 ~~110~~.

6 |         Section 117. Subsection (3) of section 400.953,  
7 | Florida Statutes, is amended to read:

8 |             400.953 Background screening of home medical equipment  
9 | provider personnel.--The agency shall require employment  
10 | screening as provided in chapter 435, using the level 1  
11 | standards for screening set forth in that chapter, for home  
12 | medical equipment provider personnel.

13 |             (3) Proof of compliance with the screening  
14 | requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.  
15 | 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.  
16 | 464.008, or s. 985.407 or this part must be accepted in lieu  
17 | of the requirements of this section if the person has been  
18 | continuously employed in the same type of occupation for which  
19 | he or she is seeking employment without a breach in service  
20 | that exceeds 180 days, the proof of compliance is not more  
21 | than 2 years old, and the person has been screened by the  
22 | Department of Law Enforcement. An employer or contractor shall  
23 | directly provide proof of compliance to another employer or  
24 | contractor, and a potential employer or contractor may not  
25 | accept any proof of compliance directly from the person  
26 | requiring screening. Proof of compliance with the screening  
27 | requirements of this section shall be provided, upon request,  
28 | to the person screened by the home medical equipment provider.

29 |         Section 118. Section 402.3057, Florida Statutes, is  
30 | amended to read:

31 |             402.3057 Persons not required to be refingerprinted or

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

15 Section 119. Subsection (4) of section 402.55, Florida  
16 Statutes, is amended to read:

17 402.55 Management fellows program.--

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

21 Section 120. Subsection (2) of section 402.731,  
22 Florida Statutes, is amended to read:

23 402.731 Department of Children and Family Services  
24 certification programs for employees and service providers;  
25 employment provisions for transition to community-based  
26 care.--

27 (2) The department shall develop and implement  
28 employment programs to attract and retain competent staff to  
29 support and facilitate the transition to privatized  
30 community-based care. Such employment programs shall include  
31 lump-sum bonuses, salary incentives, relocation allowances, or

hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 severance pay. The department shall also contract for the  
 2 delivery or administration of outplacement services. The  
 3 department shall establish time-limited exempt positions as  
 4 provided in s. 109.205(2)(h)~~110.205(2)(h)~~, in accordance with  
 5 the authority provided in s. 216.262(1)(c)1. Employees  
 6 appointed to fill such exempt positions shall have the same  
 7 salaries and benefits as career service employees.

8 Section 121. Section 409.1757, Florida Statutes, is  
 9 amended to read:

10 409.1757 Persons not required to be refingerprinted or  
 11 rescreened.--Any provision of law to the contrary  
 12 notwithstanding, human resource personnel who have been  
 13 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 14 402, and this chapter, and teachers who have been  
 15 fingerprinted pursuant to chapter 231, who have not been  
 16 unemployed for more than 90 days thereafter, and who under the  
 17 penalty of perjury attest to the completion of such  
 18 fingerprinting or screening and to compliance with the  
 19 provisions of this section and the standards for good moral  
 20 character as contained in such provisions as ss. 109.1127(3)  
 21 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 22 409.175(4), shall not be required to be refingerprinted or  
 23 rescreened in order to comply with any caretaker screening or  
 24 fingerprinting requirements.

25 Section 122. Paragraph (o) of subsection (1) of  
 26 section 440.102, Florida Statutes, is amended to read:

27 440.102 Drug-free workplace program requirements.--The  
 28 following provisions apply to a drug-free workplace program  
 29 implemented pursuant to law or to rules adopted by the Agency  
 30 for Health Care Administration:

31 (1) DEFINITIONS.--Except where the context otherwise

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 requires, as used in this act:

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

12 Section 123. Paragraph (a) of subsection (3) of  
13 section 440.4416, Florida Statutes, is amended to read:

14 440.4416 Workers' Compensation Oversight Board.--  
15 (3) EXECUTIVE DIRECTOR; EXPENSES.--

16 (a) The board shall appoint an executive director to  
17 direct and supervise the administrative affairs and general  
18 management of the board who shall be subject to the provisions  
19 of part V ~~IV~~ of chapter 109 ~~110~~. The executive director may  
20 employ persons and obtain technical assistance as authorized  
21 by the board and shall attend all meetings of the board. Board  
22 employees shall be exempt from part II of chapter 109 ~~110~~.

23 Section 124. Subsection (4) of section 443.171,  
24 Florida Statutes, is amended to read:

25 443.171 Division and commission; powers and duties;  
26 rules; advisory council; records and reports; proceedings;  
27 state-federal cooperation.--

28 (4) PERSONNEL.--Subject to chapter 109 ~~110~~ and the  
29 other provisions of this chapter, the division is authorized  
30 to appoint, fix the compensation of, and prescribe the duties  
31 and powers of such employees, accountants, attorneys, experts,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 and other persons as may be necessary in the performance of  
2 its duties under this chapter. The division may delegate to  
3 any such person such power and authority as it deems  
4 reasonable and proper for the effective administration of this  
5 chapter and may in its discretion bond any person handling  
6 moneys or signing checks hereunder; the cost of such bonds  
7 shall be paid from the Employment Security Administration  
8 Trust Fund.

9 Section 125. Paragraph (a) of subsection (9) of  
10 section 447.207, Florida Statutes, is amended to read:

11 447.207 Commission; powers and duties.--

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

15 (a) Section 109.124 ~~110.124~~, relating to termination  
16 or transfer of State Career Service System employees aged 65  
17 or older.

18 Section 126. Paragraph (a) of subsection (2) of  
19 section 456.048, Florida Statutes, is amended to read:

20 456.048 Financial responsibility requirements for  
21 certain health care practitioners.--

22 (2) The board or department may grant exemptions upon  
23 application by practitioners meeting any of the following  
24 criteria:

25 (a) Any person licensed under chapter 457, chapter  
26 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who  
27 practices exclusively as an officer, employee, or agent of the  
28 Federal Government or of the state or its agencies or its  
29 subdivisions. For the purposes of this subsection, an agent  
30 of the state, its agencies, or its subdivisions is a person  
31 who is eligible for coverage under any self-insurance or



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 insurance program authorized by the provisions of s.  
2 768.28(15) or who is a volunteer under s. 109.501(1)  
3 ~~110.501(1)~~.

4 Section 127. Subsection (3) of section 471.038,  
5 Florida Statutes, is amended to read:

6 471.038 Florida Engineers Management Corporation.--

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

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

22 (b) Provide administrative, investigative, and  
23 prosecutorial services to the board in accordance with the  
24 provisions of chapter 455, this chapter, and the contract  
25 required by this section.

26 (c) Receive, hold, and administer property and make  
27 only prudent expenditures directly related to the  
28 responsibilities of the board, and in accordance with the  
29 contract required by this section.

30 (d) Be approved by the board and the department to  
31 operate for the benefit of the board and in the best interest

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 of the state.

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

4 (f) Have a seven-member board of directors, five of  
5 whom are to be appointed by the board and must be registrants  
6 regulated by the board and two of whom are to be appointed by  
7 the secretary and must be laypersons not regulated by the  
8 board. All initial appointments shall expire on October 31,  
9 2000. Current members may be appointed to one additional term  
10 that complies with the provisions of this paragraph. Two  
11 members shall be appointed for 2 years, three members shall be  
12 appointed for 3 years, and two members shall be appointed for  
13 4 years. One layperson shall be appointed to a 3-year term and  
14 one layperson shall be appointed to a 4-year term. Thereafter,  
15 all appointments shall be for 4-year terms. No new member  
16 shall serve more than two consecutive terms. Failure to attend  
17 three consecutive meetings shall be deemed a resignation from  
18 the board, and the vacancy shall be filled by a new  
19 appointment.

20 (g) Select its officers in accordance with its bylaws.  
21 The members of the board of directors may be removed by the  
22 board, with the concurrence of the department, for the same  
23 reasons that a board member may be removed.

24 (h) Use a portion of the interest derived from the  
25 management corporation account to offset the costs associated  
26 with the use of credit cards for payment of fees by applicants  
27 or licensees.

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

31 1. Approval of the articles of incorporation and

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 bylaws of the management corporation by the department and the  
2 board.

3           2. Submission by the management corporation of an  
4 annual budget that complies with board rules for approval by  
5 the board and the department.

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

14           4. Employment by the department of a contract  
15 administrator to actively supervise the administrative,  
16 investigative, and prosecutorial activities of the management  
17 corporation to ensure compliance with the contract and the  
18 provisions of chapter 455 and this chapter and to act as a  
19 liaison for the department, the board, and the management  
20 corporation to ensure the effective operation of the  
21 management corporation.

22           5. Funding of the management corporation through  
23 appropriations allocated to the regulation of professional  
24 engineers from the Professional Regulation Trust Fund.

25           6. The reversion to the board, or the state if the  
26 board ceases to exist, of moneys, records, data, and property  
27 held in trust by the management corporation for the benefit of  
28 the board, if the management corporation is no longer approved  
29 to operate for the board or the board ceases to exist. All  
30 records and data in a computerized database shall be returned  
31 to the department in a form that is compatible with the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 computerized database of the department.

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

18           8. Payment by the management corporation, out of its  
19 allocated budget, to the department of all costs of  
20 representation by the board counsel, including salary and  
21 benefits, travel, and any other compensation traditionally  
22 paid by the department to other board counsels.

23           9. Payment by the management corporation, out of its  
24 allocated budget, to the department of all costs incurred by  
25 the management corporation or the board for the Division of  
26 Administrative Hearings of the Department of Management  
27 Services and any other cost for utilization of these state  
28 services.

29           10. Payment by the management corporation, out of its  
30 allocated budget, to the department of all costs associated  
31 with the contract administrator of the department, including

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 salary and benefits, travel, and other related costs  
2 traditionally paid to state employees.

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

14 (k) Provide for persons charged with the  
15 responsibility of receiving and depositing fee and fine  
16 revenues to have a faithful performance bond in such an amount  
17 and according to such terms as shall be determined in the  
18 contract.

19 (l) Submit to the secretary, the board, and the  
20 Legislature, on or before January 1 of each year, a report on  
21 the status of the corporation which includes, but is not  
22 limited to, information concerning the programs and funds that  
23 have been transferred to the corporation. The report must  
24 include: the number of license applications received; the  
25 number approved and denied and the number of licenses issued;  
26 the number of examinations administered and the number of  
27 applicants who passed or failed the examination; the number of  
28 complaints received; the number determined to be legally  
29 sufficient; the number dismissed; the number determined to  
30 have probable cause; the number of administrative complaints  
31 issued and the status of the complaints; and the number and

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 nature of disciplinary actions taken by the board.

2 (m) Develop, with the department, performance  
3 standards and measurable outcomes for the board to adopt by  
4 rule in order to facilitate efficient and cost-effective  
5 regulation.

6 Section 128. Subsection (3) of section 509.036,  
7 Florida Statutes, is amended to read:

8 509.036 Public food service inspector  
9 standardization.--

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

15 Section 129. Effective July 1, 2001, subsection (3) of  
16 section 509.036, Florida Statutes, as amended by this act, is  
17 amended to read:

18 509.036 Public food service inspector  
19 standardization.--

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

25 Section 130. Subsection (1) of section 570.073,  
26 Florida Statutes, is amended to read:

27 570.073 Department of Agriculture and Consumer  
28 Services, law enforcement officers.--

29 (1) The commissioner may create an Office of  
30 Agricultural Law Enforcement under the supervision of a senior  
31 manager exempt under s. 109.205 ~~110.205~~ in the Senior

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 Management Service. The commissioner may designate law  
2 enforcement officers, as necessary, to enforce any criminal  
3 law or conduct any criminal investigation relating to any  
4 matter over which the department has jurisdiction or which  
5 occurs on property owned, managed, or occupied by the  
6 department. Those matters include laws relating to:  
7 (a) Domesticated animals, including livestock,  
8 poultry, aquaculture products, and other wild or domesticated  
9 animals or animal products.  
10 (b) Farms, farm equipment, livery tack, citrus or  
11 citrus products, or horticultural products.  
12 (c) Trespass, littering, forests, forest fires, and  
13 open burning.  
14 (d) Damage to or theft of forest products.  
15 (e) Enforcement of a marketing order.  
16 (f) Protection of consumers.  
17 (g) Civil traffic offenses provided for in chapters  
18 316, 320, and 322, subject to the provisions of chapter 318,  
19 relating to any matter over which the department has  
20 jurisdiction or committed on property owned, managed, or  
21 occupied by the department.  
22 (h) The use of alcohol or drugs which occurs on  
23 property owned, managed, or occupied by the department.  
24 (i) Any emergency situation in which the life, limb,  
25 or property of any person is placed in immediate and serious  
26 danger.  
27 (j) Any crime incidental to or related to paragraphs  
28 (a)-(i).  
29 Section 131. Section 570.074, Florida Statutes, is  
30 amended to read:  
31 570.074 Department of Agriculture and Consumer

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

11 Section 132. Subsection (6) of section 624.307,  
12 Florida Statutes, is amended to read:

13 624.307 General powers; duties.--

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

25 Section 133. Subsection (4) of section 627.0623,  
26 Florida Statutes, is amended to read:

27 627.0623 Restrictions on expenditures and  
28 solicitations of insurers and affiliates.--

29 (4) No employee of the department may solicit a  
30 campaign contribution for the Treasurer or any candidate for  
31 the office of Treasurer from any insurer, affiliate, or



hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 officer of an insurer or affiliate, or any political committee  
 2 or committee of continuous existence that represents such  
 3 insurer, affiliate, or officer. For purposes of this section,  
 4 "employee of the department" means any person employed in the  
 5 Department of Insurance or the Treasurer's office holding a  
 6 position in the Senior Management Service as defined in s.  
 7 109.402 ~~110.402~~; any person holding a position in the Selected  
 8 Exempt Service as defined in s. 109.602 ~~110.602~~; any person  
 9 having authority over insurance policy, regulation, or  
 10 supervision; or any person hired on a contractual basis,  
 11 having the power normally conferred upon such person, by  
 12 whatever title.

13 Section 134. Paragraph (h) of subsection (4) of  
 14 section 627.6488, Florida Statutes, is amended to read:

15 627.6488 Florida Comprehensive Health Association.--

16 (4) The association shall:

17 (h) Contract with preferred provider organizations and  
 18 health maintenance organizations giving due consideration to  
 19 the preferred provider organizations and health maintenance  
 20 organizations which have contracted with the state group  
 21 health insurance program pursuant to s. 109.123 ~~110.123~~. If  
 22 cost-effective and available in the county where the  
 23 policyholder resides, the board, upon application or renewal  
 24 of a policy, shall place a high-risk individual, as  
 25 established under s. 627.6498(4)(a)4., with the plan case  
 26 manager who shall determine the most cost-effective quality  
 27 care system or health care provider and shall place the  
 28 individual in such system or with such health care provider.  
 29 If cost-effective and available in the county where the  
 30 policyholder resides, the board, with the consent of the  
 31 policyholder, may place a low-risk or medium-risk individual,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 as established under s. 627.6498(4)(a)4., with the plan case  
 2 manager who may determine the most cost-effective quality care  
 3 system or health care provider and shall place the individual  
 4 in such system or with such health care provider. Prior to and  
 5 during the implementation of case management, the plan case  
 6 manager shall obtain input from the policyholder, parent, or  
 7 guardian.

8 Section 135. Paragraph (a) of subsection (1) of  
 9 section 627.649, Florida Statutes, is amended to read:

10 627.649 Administrator.--

11 (1) The board shall select an administrator, through a  
 12 competitive bidding process, to administer the plan. The  
 13 board shall evaluate bids submitted under this subsection  
 14 based on criteria established by the board, which criteria  
 15 shall include:

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

21 Section 136. Paragraph (a) of subsection (2) and  
 22 subsection (3) of section 627.6498, Florida Statutes, are  
 23 amended to read:

24 627.6498 Minimum benefits coverage; exclusions;  
 25 premiums; deductibles.--

26 (2) BENEFITS.--

27 (a) The plan shall offer major medical expense  
 28 coverage similar to that provided by the state group health  
 29 insurance program as defined in s. 109.123 ~~110.123~~ except as  
 30 specified in subsection (3) to every eligible person who is  
 31 not eligible for Medicare. Major medical expense coverage

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 offered under the plan shall pay an eligible person's covered  
2 expenses, subject to limits on the deductible and coinsurance  
3 payments authorized under subsection (4), up to a lifetime  
4 limit of \$500,000 per covered individual. The maximum limit  
5 under this paragraph shall not be altered by the board, and no  
6 actuarially equivalent benefit may be substituted by the  
7 board.

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

19 Section 137. Subsection (4) of section 627.6617,  
20 Florida Statutes, is amended to read:

21 627.6617 Coverage for home health care services.--

22 (4) The provisions of this section shall not apply to  
23 a multiple-employer welfare arrangement as defined in s.  
24 624.437(1) and in the State Health Plan as provided in s.  
25 109.123 ~~110.123~~.

26 Section 138. Subsection (3) of section 655.019,  
27 Florida Statutes, is amended to read:

28 655.019 Campaign contributions; limitations.--

29 (3) No employee of the department may solicit a  
30 campaign contribution for the Comptroller or any candidate for  
31 the office of the Comptroller from any person who is licensed

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 or otherwise authorized to do business by the department or  
2 who has an application pending for licensure or other  
3 authorization to do business pending with the department, or  
4 any director, officer, employee, agent, retained legal  
5 counsel, lobbyist, or partner or affiliate of that person or  
6 any political committee or committee of continuous existence  
7 that represents that person. For purposes of this section,  
8 "employee of the department" means any person employed in the  
9 department or the Comptroller's office holding a position in  
10 the Senior Management Service as defined in s. 109.402  
11 ~~110.402~~; any person holding a position in the Selected Exempt  
12 Service as defined in s. 109.602 ~~110.602~~; any person having  
13 authority over institution policy, regulation, or supervision;  
14 or any person hired on a contractual basis, having the power  
15 normally conferred upon such person, by whatever title.

16 Section 139. Paragraph (a) of subsection (4) of  
17 section 943.0585, Florida Statutes, is amended to read:

18 943.0585 Court-ordered expunction of criminal history  
19 records.--The courts of this state have jurisdiction over  
20 their own procedures, including the maintenance, expunction,  
21 and correction of judicial records containing criminal history  
22 information to the extent such procedures are not inconsistent  
23 with the conditions, responsibilities, and duties established  
24 by this section. Any court of competent jurisdiction may  
25 order a criminal justice agency to expunge the criminal  
26 history record of a minor or an adult who complies with the  
27 requirements of this section. The court shall not order a  
28 criminal justice agency to expunge a criminal history record  
29 until the person seeking to expunge a criminal history record  
30 has applied for and received a certificate of eligibility for  
31 expunction pursuant to subsection (2). A criminal history

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 record that relates to a violation of chapter 794, s. 800.04,  
2 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a  
3 violation enumerated in s. 907.041 may not be expunged,  
4 without regard to whether adjudication was withheld, if the  
5 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 expunction of a criminal history record pertaining  
10 to 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 expunction 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 expunction of records pertaining to such  
16 additional arrests, such intent must be specified in the  
17 order. A criminal justice agency may not expunge any record  
18 pertaining to such additional arrests if the order to expunge  
19 does not articulate the intention of the court to expunge a  
20 record pertaining to more than one arrest. This section does  
21 not prevent the court from ordering the expunction of only a  
22 portion of a criminal history record pertaining to one arrest  
23 or one incident of alleged criminal activity. Notwithstanding  
24 any law to the contrary, a criminal justice agency may comply  
25 with laws, court orders, and official requests of other  
26 jurisdictions relating to expunction, correction, or  
27 confidential handling of criminal history records or  
28 information derived therefrom. This section does not confer  
29 any right to the expunction of any criminal history record,  
30 and any request for expunction of a criminal history record  
31 may be denied at the sole discretion of the court.

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

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

15           (a) The person who is the subject of a criminal  
16 history record that is expunged under this section or under  
17 other provisions of law, including former s. 893.14, former s.  
18 901.33, and former s. 943.058, may lawfully deny or fail to  
19 acknowledge the arrests covered by the expunged record, except  
20 when the subject of the record:

- 21           1. Is a candidate for employment with a criminal  
22 justice agency;
- 23           2. Is a defendant in a criminal prosecution;
- 24           3. Concurrently or subsequently petitions for relief  
25 under this section or s. 943.059;
- 26           4. Is a candidate for admission to The Florida Bar;
- 27           5. Is seeking to be employed or licensed by or to  
28 contract with the Department of Children and Family Services  
29 or the Department of Juvenile Justice or to be employed or  
30 used by such contractor or licensee in a sensitive position  
31 having direct contact with children, the developmentally

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 disabled, the aged, or the elderly as provided in s.  
2 ~~109.1127(3)~~~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.  
3 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
4 415.102(4), s. 985.407, or chapter 400; or

5 6. Is seeking to be employed or licensed by the Office  
6 of Teacher Education, Certification, Staff Development, and  
7 Professional Practices of the Department of Education, any  
8 district school board, or any local governmental entity that  
9 licenses child care facilities.

10 Section 140. Paragraph (a) of subsection (4) of  
11 section 943.059, Florida Statutes, is amended to read:

12 943.059 Court-ordered sealing of criminal history  
13 records.--The courts of this state shall continue to have  
14 jurisdiction over their own procedures, including the  
15 maintenance, sealing, and correction of judicial records  
16 containing criminal history information to the extent such  
17 procedures are not inconsistent with the conditions,  
18 responsibilities, and duties established by this section. Any  
19 court of competent jurisdiction may order a criminal justice  
20 agency to seal the criminal history record of a minor or an  
21 adult who complies with the requirements of this section. The  
22 court shall not order a criminal justice agency to seal a  
23 criminal history record until the person seeking to seal a  
24 criminal history record has applied for and received a  
25 certificate of eligibility for sealing pursuant to subsection  
26 (2). A criminal history record that relates to a violation of  
27 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,  
28 s. 893.135, or a violation enumerated in s. 907.041 may not be  
29 sealed, without regard to whether adjudication was withheld,  
30 if the defendant was found guilty of or pled guilty or nolo  
31 contendere to the offense, or if the defendant, as a minor,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 was found to have committed or pled guilty or nolo contendere  
2 to committing the offense as a delinquent act. The court may  
3 only order sealing of a criminal history record pertaining to  
4 one arrest or one incident of alleged criminal activity,  
5 except as provided in this section. The court may, at its sole  
6 discretion, order the sealing of a criminal history record  
7 pertaining to more than one arrest if the additional arrests  
8 directly relate to the original arrest. If the court intends  
9 to order the sealing of records pertaining to such additional  
10 arrests, such intent must be specified in the order. A  
11 criminal justice agency may not seal any record pertaining to  
12 such additional arrests if the order to seal does not  
13 articulate the intention of the court to seal records  
14 pertaining to more than one arrest. This section does not  
15 prevent the court from ordering the sealing of only a portion  
16 of a criminal history record pertaining to one arrest or one  
17 incident of alleged criminal activity. Notwithstanding any law  
18 to the contrary, a criminal justice agency may comply with  
19 laws, court orders, and official requests of other  
20 jurisdictions relating to sealing, correction, or confidential  
21 handling of criminal history records or information derived  
22 therefrom. This section does not confer any right to the  
23 sealing of any criminal history record, and any request for  
24 sealing a criminal history record may be denied at the sole  
25 discretion of the court.

26 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
27 criminal history record of a minor or an adult which is  
28 ordered sealed by a court of competent jurisdiction pursuant  
29 to this section is confidential and exempt from the provisions  
30 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
31 and is available only to the person who is the subject of the



hbd-05

Bill No. HB 369

Amendment No. \_\_\_\_ (for drafter's use only)

1 record, to the subject's attorney, to criminal justice  
 2 agencies for their respective criminal justice purposes, or to  
 3 those entities set forth in subparagraphs (a)1., 4., 5., and  
 4 6. for their respective licensing and employment purposes.

5 (a) The subject of a criminal history record sealed  
 6 under this section or under other provisions of law, including  
 7 former s. 893.14, former s. 901.33, and former s. 943.058, may  
 8 lawfully deny or fail to acknowledge the arrests covered by  
 9 the sealed record, except when the subject of the record:

- 10 1. Is a candidate for employment with a criminal  
 11 justice agency;
- 12 2. Is a defendant in a criminal prosecution;
- 13 3. Concurrently or subsequently petitions for relief  
 14 under this section or s. 943.0585;
- 15 4. Is a candidate for admission to The Florida Bar;
- 16 5. Is seeking to be employed or licensed by or to  
 17 contract with the Department of Children and Family Services  
 18 or the Department of Juvenile Justice or to be employed or  
 19 used by such contractor or licensee in a sensitive position  
 20 having direct contact with children, the developmentally  
 21 disabled, the aged, or the elderly as provided in s.  
 22 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.  
 23 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
 24 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
- 25 6. Is seeking to be employed or licensed by the Office  
 26 of Teacher Education, Certification, Staff Development, and  
 27 Professional Practices of the Department of Education, any  
 28 district school board, or any local governmental entity which  
 29 licenses child care facilities.

30 Section 141. Subsection (4) of section 943.22, Florida  
 31 Statutes, is amended to read:

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           943.22 Salary incentive program for full-time  
2 officers.--

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

7           Section 142. Paragraph (c) of subsection (3) of  
8 section 944.35, Florida Statutes, is amended to read:

9           944.35 Authorized use of force; malicious battery and  
10 sexual misconduct prohibited; reporting required; penalties.--

11           (3)

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

19           Section 143. Subsection (2) of section 945.043,  
20 Florida Statutes, is amended to read:

21           945.043 Department-operated day care services.--

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

24           Section 144. Subsection (6) of section 957.03, Florida  
25 Statutes, is amended to read:

26           957.03 Correctional Privatization Commission.--

27           (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The  
28 commission shall be a separate budget entity, and the  
29 executive director shall be its chief administrative officer.  
30 The Department of Management Services shall provide  
31 administrative support and service to the commission to the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 extent requested by the executive director. The commission and  
2 its staff are not subject to control, supervision, or  
3 direction by the Department of Management Services in any  
4 manner, including, but not limited to, personnel, purchasing,  
5 and budgetary matters, except to the extent as provided in  
6 chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the  
7 executive branch. The executive director may designate a  
8 maximum of two policymaking or managerial positions as being  
9 exempt from the Career Service System. These two positions may  
10 be provided for as members of the Senior Management Service.

11 Section 145. Subsection (2) of section 985.04, Florida  
12 Statutes, is amended to read:

13 985.04 Oaths; records; confidential information.--

14 (2) Records maintained by the Department of Juvenile  
15 Justice, including copies of records maintained by the court,  
16 which pertain to a child found to have committed a delinquent  
17 act which, if committed by an adult, would be a crime  
18 specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457,  
19 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed  
20 pursuant to this section, except in cases of the death of the  
21 child. Such records, however, shall be sealed by the court for  
22 use only in meeting the screening requirements for personnel  
23 in s. 402.3055 and the other sections cited above, or pursuant  
24 to departmental rule; however, current criminal history  
25 information must be obtained from the Department of Law  
26 Enforcement in accordance with s. 943.053. The information  
27 shall be released to those persons specified in the above  
28 cited sections for the purposes of complying with those  
29 sections. The court may punish by contempt any person who  
30 releases or uses the records for any unauthorized purpose.

31 Section 146. Paragraph (e) of subsection (4) of

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 section 985.05, Florida Statutes, is amended to read:

2 985.05 Court records.--

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

6 (e) Records of proceedings under this part may be used  
7 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,  
8 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,  
9 409.176, and 985.407.

10 Section 147. Paragraph (b) of subsection (1) of  
11 section 985.4045, Florida Statutes, is amended to read:

12 985.4045 Sexual misconduct prohibited; reporting  
13 required; penalties.--

14 (1)

15 (b) Notwithstanding prosecution, any violation of this  
16 subsection, as determined by the Public Employees Relations  
17 Commission, constitutes sufficient cause under s. 109.227  
18 ~~110.227~~ for dismissal from employment with the department, and  
19 such person may not again be employed in any capacity in  
20 connection with the juvenile justice system.

21 Section 148. Paragraph (c) of subsection (1) of  
22 section 216.262, Florida Statutes, is amended to read:

23 216.262 Authorized positions.--

24 (1)

25 (c)1. The Executive Office of the Governor, under such  
26 procedures and qualifications as it deems appropriate, shall,  
27 upon agency request, delegate to any state agency authority to  
28 add and delete authorized positions or transfer authorized  
29 positions from one budget entity to another budget entity  
30 within the same division, and may approve additions and  
31 deletions of authorized positions or transfers of authorized

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 positions within the state agency when such changes would  
2 enable the agency to administer more effectively its  
3 authorized and approved programs. The additions or deletions  
4 must be consistent with the intent of the approved operating  
5 budget, must be consistent with legislative policy and intent,  
6 and must not conflict with specific spending policies  
7 specified in the General Appropriations Act.

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

16           3.a. A state agency may be eligible for an efficiency  
17 award based on changes to authorized positions. To be  
18 eligible, the agency must submit an application to the  
19 Legislative Budgeting Commission identifying the modification  
20 to an approved program resulting in efficiency and cost  
21 savings.

22           b. The amount of the efficiency award shall be  
23 determined by the Legislative Budgeting Commission but shall  
24 not exceed the actual savings of currently appropriated funds.  
25 In determining the amount of the award, the Legislative  
26 Budgeting Commission shall consider the actual savings for the  
27 current year and the annualized savings. The efficiency award  
28 may be used for nonrecurring purposes only.

29           c. Each state agency allowed to retain salary  
30 appropriations pursuant to this subparagraph shall submit in  
31 its next legislative budget request a schedule showing how the

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 agency utilized such funds.

2 Section 149. Effective January 1, 2002, section  
3 447.201, Florida Statutes, is amended to read:

4 447.201 Statement of policy.--~~It is declared that~~ The  
5 public policy of this ~~the~~ state, and the purpose of this part,  
6 is to provide statutory implementation of s. 6, Art. I of the  
7 State Constitution, with respect to public employees; to  
8 promote harmonious and cooperative relationships between  
9 government and its employees, both collectively and  
10 individually; and to protect the public by assuring, at all  
11 times, the orderly and uninterrupted operations and functions  
12 of government. ~~It is the intent of the Legislature that~~  
13 Nothing herein shall be construed either to encourage or  
14 discourage organization of public employees. This state's  
15 public policy is ~~These policies are~~ best effectuated by:

- 16 (1) Granting to public employees the right of  
17 organization and representation;
- 18 (2) Requiring the state, local governments, and other  
19 political subdivisions to negotiate with bargaining agents  
20 duly certified to represent public employees;
- 21 (3) Creating a Public Employees Relations Commission  
22 to assist in resolving disputes between public employees and  
23 public employers; and
- 24 (4) Recognizing the constitutional prohibition against  
25 strikes by public employees and providing remedies for  
26 violations of such prohibition.

27 Section 150. Effective January 1, 2002, subsections  
28 (1), (3), and (4) of section 447.205, Florida Statutes, are  
29 amended to read:

30 447.205 Public Employees Relations Commission.--  
31 (1) ~~There is hereby created within the Department of~~

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 ~~Labor and Employment Security~~ The Public Employees Relations  
2 Commission, hereinafter referred to as the "commission~~,"~~" ~~The~~  
3 ~~commission~~ shall be composed of a chair and two full-time  
4 members to be appointed by the Governor, subject to  
5 confirmation by the Senate, from persons representative of the  
6 public and known for their objective and independent judgment,  
7 who shall not be employed by, or hold any commission with, any  
8 governmental unit in the state or any employee organization,  
9 as defined in this part, while in such office. In no event  
10 shall more than one appointee be a person who, on account of  
11 previous vocation, employment, or affiliation, is, or has  
12 been, classified as a representative of employers; and in no  
13 event shall more than one such appointee be a person who, on  
14 account of previous vocation, employment, or affiliation, is,  
15 or has been, classified as a representative of employees or  
16 employee organizations. The commissioners shall devote full  
17 time to commission duties and shall not engage in any other  
18 business, vocation, or employment while in such office.  
19 Beginning January 1, 1980, the chair shall be appointed for a  
20 term of 4 years, one commissioner for a term of 1 year, and  
21 one commissioner for a term of 2 years. Thereafter, every term  
22 of office shall be for 4 years; and each term of the office of  
23 chair shall commence on January 1 of the second year following  
24 each regularly scheduled general election at which a Governor  
25 is elected to a full term of office. In the event of a  
26 vacancy prior to the expiration of a term of office, an  
27 appointment shall be made for the unexpired term of that  
28 office. The chair shall be responsible for the administrative  
29 functions of the commission and shall have the authority to  
30 employ such personnel as may be necessary to carry out the  
31 provisions of this part. Once appointed to the office of

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 chair, the chair shall serve as chair for the duration of the  
2 term of office of chair. Nothing contained herein prohibits a  
3 chair or commissioner from serving multiple terms.

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

8 (4) The property, personnel, and appropriations  
9 related to the commission's specified authority, powers,  
10 duties, and responsibilities shall be provided to the  
11 commission by the Department of Management Services ~~labor and~~  
12 ~~Employment Security~~.

13 Section 151. Effective January 1, 2002, subsections  
14 (8), (9), (10), and (11) of section 447.207, Florida Statutes,  
15 are repealed.

16  
17  
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 On page 159, line 7, through  
21 page 162, line 11, of the amendment  
22 remove: all of said lines

23  
24 and insert in lieu thereof:

25 renumbering s. 110.227, F.S.; revising certain  
26 responsibilities of agency heads; providing  
27 that, except with regard to law enforcement or  
28 correctional officers or firefighters, rules  
29 regarding layoff shall not include "bumping";  
30 deleting a requirement that a layoff be  
31 conducted within an identified competitive area



hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1 with regard to employees other than law  
2 enforcement or correctional officers or  
3 firefighters; providing for appeal of  
4 reductions in pay, transfers, layoffs, or  
5 demotions to, and hearings regarding suspension  
6 or dismissal before, the circuit court, or for  
7 voluntary binding arbitration with respect  
8 thereto; creating s. 109.237, F.S.; creating an  
9 Office of Employee Relations within the  
10 Department of Management Services; providing  
11 for an executive director, a general counsel,  
12 and an administrative assistant, and their  
13 qualifications and duties; providing for  
14 additional personnel; providing duties of the  
15 department; providing powers and duties of the  
16 office; creating s. 109.240, F.S.; providing  
17 that any permanent career service employee may  
18 request voluntary binding arbitration  
19 administered by the Office of Employee  
20 Relations upon notice of an adverse agency  
21 action; providing definitions; providing  
22 requirements for such requests; providing for  
23 notice to the agency; specifying the employer's  
24 burden of proof; providing for arbitrators and  
25 their qualifications and authority; providing  
26 for employee panels and their qualifications  
27 and authority; providing duties of the office;  
28 providing for records; providing procedural  
29 requirements for arbitration proceedings;  
30 providing for rules; providing for application  
31 to the circuit court for an order confirming,

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           vacating, or modifying the arbitration  
2           decision; providing for immunity; amending and  
3           renumbering s. 110.403, F.S.; increasing the  
4           limit on the number of Senior Management  
5           Service positions; amending and renumbering s.  
6           110.602, F.S.; removing the limit on the number  
7           of Selected Exempt Service positions; amending  
8           and renumbering ss. 110.1091, 110.1127,  
9           110.117, 110.1227, 110.123, 110.12312,  
10          110.1232, 110.129, 110.152, 110.1521, 110.1522,  
11          110.1523, 110.161, 110.171, 110.191, 110.233,  
12          110.235, 110.401, 110.402, 110.406, 110.502,  
13          110.601, 110.605, and 110.606, F.S.; clarifying  
14          and conforming language and correcting cross  
15          references; amending ss. 20.171, 20.18, 20.21,  
16          20.23, 20.255, 20.315, 24.105, 24.122, 68.087,  
17          104.31, 106.082, 106.24, 112.044, 112.0805,  
18          112.313, 112.3189, 112.363, 121.021, 121.0515,  
19          121.055, 121.35, 215.94, 216.011, 216.251,  
20          231.381, 235.217, 240.209, 240.2111, 240.507,  
21          241.002, 242.331, 260.0125, 281.02, 287.175,  
22          288.708, 295.07, 296.04, 296.34, 311.07,  
23          339.175, 343.74, 381.85, 393.0657, 400.19,  
24          400.953, 402.3057, 402.55, 402.731, 409.1757,  
25          440.102, 440.4416, 443.171, 456.048, 471.038,  
26          509.036, 570.073, 570.074, 624.307, 627.0623,  
27          627.6488, 627.649, 627.6498, 627.6617, 655.019,  
28          943.0585, 943.059, 943.22, 944.35, 945.043,  
29          957.03, 985.04, 985.05, and 985.4045, F.S. ;  
30          conforming language and correcting cross  
31          references; amending s. 216.262, F.S. ;

hbd-05

Amendment No. \_\_\_\_ (for drafter's use only)

1           authorizing efficiency awards to state agencies  
2           based on changes to authorized positions and  
3           providing requirements with respect thereto;  
4           amending s. 447.201, F.S., relating to the  
5           statement of public policy regarding public  
6           employees; amending s. 447.205, F.S., relating  
7           to creation of the Public Employees Relations  
8           Commission; repealing s. 447.207(8), (9), (10),  
9           and (11), F.S., which provide for appeals to  
10          the commission with regard to adverse agency  
11          actions against career service employees;  
12          repealing s. 447.208, F.S., which

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