

229-192AX-05

Bill No. HB 369

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

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

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11 Representative(s) Diaz-Balart offered the following:

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13 **Substitute Amendment for Amendment (343575) (with title**
14 **amendment)**

15 Remove from the bill: Everything after the enacting clause

16

17 and insert in lieu thereof:

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

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

23 109.107 ~~110.107~~ Definitions.--As used in this chapter,
24 ~~the term:~~

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

27 ~~(2)~~~~(3)~~ "Furlough" means a temporary reduction in the
28 regular hours of employment in a pay period, or temporary
29 leave without pay for one or more pay periods, with a
30 commensurate reduction in pay, necessitated by a projected
31 deficit in any fund that supports salary and benefit

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1 appropriations. The deficit must be projected by the Revenue
2 Estimating Conference pursuant to s. 216.136(3).

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

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

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8 Statutes, are repealed.

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

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

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

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1 Sunset Review Act of 1995 in accordance with s. 119.15, and
2 shall stand repealed on October 2, 2003, unless reviewed and
3 saved from repeal through reenactment by the Legislature.

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

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

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

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

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

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

30 (3) An employee ~~Employees~~ who exhibits ~~exhibit~~
31 superior aptitude and performance may be authorized by that

1 employee's agency head to take a paid educational leave leaves
2 of absence for up to 1 academic year at a time, for specific
3 approved work-related education and training.

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

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

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

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

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1 to read:

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

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

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

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

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

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1 to managers regarding progress, deficiencies, and appropriate
2 corrective action.

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

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

18 (3) Each state attorney and public defender shall:

19 ~~(a) Develop and implement an affirmative action plan.~~

20 ~~(b) Establish annual goals for ensuring full~~

21 ~~utilization of groups underrepresented in its workforce as~~
22 ~~compared to the relevant labor market in this state. The state~~
23 ~~attorneys' and public defenders' affirmative action plans must~~
24 ~~be designed to meet the established goals.~~

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

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

31 (4) The state, its agencies and officers shall ensure

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1 freedom from discrimination in employment as provided by the
 2 Florida Civil Rights Act of 1992, by s. 112.044, and by this
 3 chapter.

4 (5) Any individual claiming to be aggrieved by an
 5 unlawful employment practice may file a complaint with the
 6 Florida Commission on Human Relations as provided by s.
 7 760.11(1)~~760.10(10)~~.

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

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

14 109.1127 ~~110.1127~~ Employee security checks.--

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

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

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

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

30 (2) As a condition of employment, a person appointed
 31 to a position in state government ~~on or after July 1, 1996,~~ is

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

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

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

17 109.117 ~~110.117~~ Paid holidays.--

18 (3) Each full-time employee is entitled to one
19 personal holiday each year. Each part-time employee is
20 entitled to a personal holiday each year which shall be
21 calculated proportionately to the personal holiday allowed to
22 a full-time employee. Such personal holiday shall be credited
23 to eligible employees on July 1 of each year to be taken prior
24 to June 30 of the following year. Members of the teaching and
25 research faculty of the State University System and
26 administrative and professional positions exempted under s.
27 109.205(2)(d) ~~110.205(2)(d)~~ are not eligible for this benefit.

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

1 respectively.

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

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

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

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

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

17 109.123 ~~110.123~~ State group insurance program.--

18 (3) STATE GROUP INSURANCE PROGRAM.--

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

30 2. The department shall contract with health
31 maintenance organizations seeking to participate in the state

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1 group insurance program through a request for proposal or
2 other procurement process, as developed by the Department of
3 Management Services and determined to be appropriate.

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

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

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

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

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

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

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

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

31 a. Serves greater than 5,000 recipients on a prepaid

1 basis under the Medicaid program;

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

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

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

12 e. Meets the minimum surplus requirements of s.
13 641.225.

14

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

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

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

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

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

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

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1 care, and other benefits it determines necessary to enable
2 state employees to select from among benefit options that best
3 suit their individual and family needs.

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

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1 comprehensive indemnity dental plan option which provides
2 enrollees with a completely unrestricted choice of dentists.

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

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

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

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

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1 Section 18. Section 110.12315, Florida Statutes, is
2 renumbered as section 109.12315, Florida Statutes.

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

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

21 Section 20. Sections 110.1234, 110.1238, and 110.1239,
22 Florida Statutes, are renumbered as sections 109.1234,
23 109.1238, and 109.1239, Florida Statutes, respectively.

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

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

30 (2) Whenever any employee who has attained age 65 is
31 terminated by an agency or department solely because the

1 employee attains age 65, the employee may seek ~~apply for~~
 2 relief from the action through voluntary binding arbitration
 3 pursuant to s. 109.240 ~~to the Public Employees Relations~~
 4 ~~Commission pursuant to s. 447.208.~~ The employee shall
 5 continue in employment pending the outcome of the voluntary
 6 binding arbitration application. If the employee continues in
 7 employment following a the decision of the voluntary binding
 8 arbitration panel commission, no further action shall be taken
 9 by the agency or department to terminate the employee for a
 10 period of 1 year following the date of the panel's decision of
 11 ~~the commission~~ unless approved by the office commission upon a
 12 showing by the agency or department that the employee's
 13 capability has changed to a sufficient extent that he or she
 14 is no longer able to perform any job within such agency or
 15 department. An employee who does not request voluntary binding
 16 arbitration may apply for relief to the circuit court.

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

26 Section 22. Section 110.1245, Florida Statutes, is
 27 renumbered as section 109.1245, Florida Statutes, and amended
 28 to read:

29 (Substantial rewording of section. See
 30 s. 110.1245, F.S., for present text.)

31 109.1245 Savings sharing; bonus payments; other

1 awards.--

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

9 (b) Each agency head shall recommend employees
10 individually or by group to be awarded an amount of money,
11 which amount shall be directly related to the cost savings
12 realized. Each proposed award and amount of money must be
13 approved by the Legislative Budgeting Commission.

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

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

27 1. The number of proposals made.

28 2. The number of awards made to employees or groups
29 for adopted proposals.

30 3. The actual cost savings realized as a result of
31 implementing employee or group proposals.

1 4. The number of employees or groups recognized for
2 superior accomplishments.

3 (2) In June of each year, bonuses shall be paid to
4 employees from funds authorized by the Legislature in an
5 appropriation specifically for bonuses. Each agency shall
6 develop a plan for awarding lump-sum bonuses, which plan shall
7 be submitted to and approved by the Office of Policy and
8 Budget in the Executive Office of the Governor no later than
9 September 15 of each year. Such plan shall include, at a
10 minimum:

11 (a) A statement that bonuses shall be awarded from
12 unused salary and expense dollars.

13 (b) A statement that all bonuses are subject to
14 appropriation by the Legislature.

15 (c) Eligibility criteria as follows:

16 1. The employee must have been employed prior to July
17 1 of that fiscal year and have been continuously employed
18 through the date of distribution.

19 2. The employee must not have been on leave without
20 pay consecutively for more than 6 months during the fiscal
21 year.

22 3. The employee must have had no disciplinary action
23 during the period beginning July 1 through the date the bonus
24 checks are distributed. Disciplinary actions include written
25 reprimands, suspensions, dismissals, and involuntary or
26 voluntary demotions that were associated with a disciplinary
27 action.

28 4. The employee must have demonstrated a commitment to
29 the agency mission by reducing the burden on those served,
30 continually improving the way business is conducted, producing
31 results in the form of increased outputs, and working to

1 improve processes.

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

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

7 (d) An evaluation process of the employee's
8 performance and eligibility to be performed no less than
9 quarterly.

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

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

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

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

25 (4) Each department head is authorized to incur
26 expenditures to award suitable framed certificates, pins, or
27 other tokens of recognition to state employees who have
28 achieved increments of 5 years of satisfactory service in the
29 agency or to the state, in appreciation and recognition of
30 such service. Such awards may not cost in excess of \$100 each
31 plus applicable taxes.

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

9 Section 23. Section 110.1246, Florida Statutes, is
 10 repealed.

11 Section 24. Sections 110.125, 110.126, and 110.127,
 12 Florida Statutes, are renumbered as sections 109.125, 109.126,
 13 and 109.127, Florida Statutes, respectively.

14 Section 25. Section 110.129, Florida Statutes, is
 15 renumbered as section 109.129, Florida Statutes, and amended
 16 to read:

17 109.129 ~~110.129~~ Services to political subdivisions.--

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

27 (2) Technical assistance includes ~~may include~~, but is
 28 ~~shall not be~~ limited to, providing technical advice, written
 29 reports, or ~~and~~ other information or materials, which ~~and~~ may
 30 cover such subjects as management and personnel systems,
 31 central administrative and support services, employee

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1 training, and employee productivity.

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

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

13 109.131 ~~110.131~~ Other-personal-services temporary
14 employment.--

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

31 (3) The department shall adopt rules providing that

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

10 (6)

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

19 Section 27. Section 110.151, Florida Statutes, is
20 renumbered as section 109.151, Florida Statutes.

21 Section 28. Section 110.152, Florida Statutes, is
22 renumbered as section 109.152, Florida Statutes, and
23 subsection (4) of said section is amended to read:

24 109.152 ~~110.152~~ Adoption benefits for state or water
25 management district employees; parental leave.--

26 (4) Any employee of the state or of a water management
27 district who has a child placed in the custody of the employee
28 for adoption, and who continues to reside in the same
29 household as the child placed for adoption, shall be granted
30 parental leave for a period not to exceed 6 months as provided
31 in s. 109.221 ~~110.221~~.

1 Section 29. Section 110.15201, Florida Statutes, is
2 renumbered as section 109.15201, Florida Statutes.

3 Section 30. Section 110.1521, Florida Statutes, is
4 renumbered as section 109.1521, Florida Statutes, and amended
5 to read:

6 109.1521 ~~110.1521~~ Short title.--Sections
7 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the
8 "Family Support Personnel Policies Act."

9 Section 31. Section 110.1522, Florida Statutes, is
10 renumbered as section 109.1522, Florida Statutes, and amended
11 to read:

12 109.1522 ~~110.1522~~ Model rule establishing family
13 support personnel policies.--The Department of Management
14 Services shall develop a model rule establishing family
15 support personnel policies for all executive branch agencies,
16 excluding the State University System. "Family support
17 personnel policies," for purposes of ss. 109.1521-109.1523
18 ~~110.1521-110.1523~~, means personnel policies affecting
19 employees' ability to both work and devote care and attention
20 to their families and includes policies on flexible hour work
21 schedules, compressed time, job sharing, part-time employment,
22 maternity or paternity leave for employees with a newborn or
23 newly adopted child, and paid and unpaid family or
24 administrative leave for family responsibilities.

25 Section 32. Section 110.1523, Florida Statutes, is
26 renumbered as section 109.1523, Florida Statutes, and amended
27 to read:

28 109.1523 ~~110.1523~~ Adoption of model rule.--The model
29 rule shall be effective 20 days after having been filed with
30 the Department of State and shall become part of the personnel
31 rules of all applicable state agencies 150 days after the

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1 effective date of the rule to the extent that each agency does
2 not, subsequent to such effective date, adopt a rule that sets
3 forth the intent to specifically amend all or part of such
4 model rule. Any employee or organization representing
5 employees shall be considered a party for purposes of any rule
6 required by ss. 109.1521-109.1523 ~~110.1521-110.1523~~,
7 notwithstanding any provision of chapter 120 to the contrary.

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

11 109.161 ~~110.161~~ State employees; pretax benefits
12 program.--

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

18 (a) Shall allow employee contributions to premiums for
19 the state group insurance program administered under s.
20 109.123 ~~110.123~~ to be paid on a pretax basis unless an
21 employee elects not to participate.

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

25 109.171 ~~110.171~~ State employee telecommuting
26 program.--

27 (2) The department shall:

28 (c) Identify state employees who are participating in
29 a telecommuting program and their job classifications through
30 the state personnel payroll information subsystem created
31 under s. 109.116 ~~110.116~~.

1 Section 35. Section 110.181, Florida Statutes, is
2 renumbered as section 109.181, Florida Statutes.

3 Section 36. Section 110.191, Florida Statutes, is
4 renumbered as section 109.191, Florida Statutes, and amended
5 to read:

6 109.191 ~~110.191~~ State employee leasing.--

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

16 (a) Create a separate budget entity from which leased
17 employees shall be paid and transfer the positions authorized
18 to be leased to that budget entity.

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

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

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

29 (e) Waive any requirement for automatic salary
30 increases which may be contained in the General Appropriations
31 Act.

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

14 Section 37. Section 110.201, Florida Statutes, is
 15 renumbered as section 109.201, Florida Statutes.

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

20 109.203 ~~110.203~~ Definitions.--For the purpose of this
 21 part and the personnel affairs of the state:

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

26 (18) "Promotion" means ~~the~~ changing ~~of~~ the
 27 classification of an employee to a class having a higher
 28 maximum salary; or ~~the~~ changing ~~of~~ the classification of an
 29 employee to a class having the same or a lower maximum salary
 30 but a higher level of responsibility as determined by the
 31 Department of Management Services.

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

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

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

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

20 109.203 Definitions.--For the purpose of this part and
21 the personnel affairs of the state:

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

26 (23) "Suspension" means a disciplinary action taken by
27 an agency pursuant to s. 109.227 against an employee to
28 temporarily relieve the employee of his or her duties and
29 place him or her on leave without pay ~~for violation of agency~~
30 ~~standards or for cause pursuant to s. 109.227.~~

31 (24) "Layoff" means termination of employment due to

1 abolishment of positions necessitated by a shortage of funds
2 or work, or a material change in the duties or organization of
3 an agency, including the outsourcing or privatization of an
4 activity or function previously performed by career service
5 employees.

6 (28) "Firefighter" means a firefighter certified under
7 chapter 633.

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

12 Section 40. Section 109.2035, Florida Statutes, is
13 created to read:

14 109.2035 Civil service classification and compensation
15 program.--

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

22 (2) The program shall consist of the following:

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

29 (b) A pay plan which shall provide broad, market-based
30 salary ranges for each occupational group.

31 (3) The following goals shall be considered in

1 designing and implementing the program:

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

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

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

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

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

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

27 (6) The department shall establish, by rule,
28 guidelines with respect to, and shall delegate, where
29 appropriate, to the employing agencies the authority to
30 administer, the following:

31 (a) Shift differentials.

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

11

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

24 Section 41. Section 110.205, Florida Statutes, is
 25 renumbered as section 109.205, Florida Statutes, paragraphs
 26 (h) and (u) of subsection (2) and subsection (3) of said
 27 section are amended and subsections (7) and (8) are added to
 28 said section, and, effective July 1, 2001, paragraphs (v) and
 29 (w) are added to subsection (2) of said section, to read:

30 109.205 ~~110.205~~ Career service; exemptions.--
 31 (2) EXEMPT POSITIONS.--The exempt positions which are

1 not covered by this part include the following, provided that
2 no position, except for positions established for a limited
3 period of time pursuant to paragraph (h), shall be exempted if
4 the position reports to a position in the career service:

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

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

16 (v) Managerial employees, as defined in s. 447.203(4),
17 confidential employees, as defined in s. 447.203(5), and
18 supervisory employees who spend the majority of their time
19 communicating with, motivating, training, and evaluating
20 employees, and planning and directing employees' work, and who
21 have the authority to hire, transfer, suspend, lay off,
22 recall, promote, discharge, assign, reward, or discipline
23 subordinate employees or effectively recommend such action,
24 including all employees serving as supervisors,
25 administrators, and directors, except employees also
26 designated as special risk or special risk administrative
27 support and except administrative law judges and hearing
28 officers. Unless otherwise fixed by law, the department shall
29 establish the salary range and benefits for these positions in
30 accordance with the rules of the Selected Exempt Service.

31 (w) Any employee exempted and moved to the Selected

1 Exempt Service by way of a collective bargaining agreement.

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

6 (7) If an employee is transferred or otherwise moves
7 from the Career Service System into the Selected Exempt
8 Service, all of the employee's unused annual leave and unused
9 sick leave shall carry forward with the employee.

10 (8) If an employee is transferred or otherwise moves
11 from the Career Service System into the Selected Exempt
12 Service on July 1, 2001, all of the employee's unused
13 compensatory leave shall carry forward with the employee.

14 Section 42. Sections 110.207, 110.209, and 110.21,
15 Florida Statutes, are renumbered as sections 109.207, 109.209,
16 and 109.21, Florida Statutes, respectively.

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

19 Section 44. Section 110.211, Florida Statutes, is
20 renumbered as section 109.211, Florida Statutes, and amended
21 to read:

22 109.211 ~~110.211~~ Recruitment.--

23 (1) Recruiting shall be planned and carried out in a
24 manner that assures open competition based upon current and
25 projected employing agency needs, taking into consideration
26 the number and types of positions to be filled and the labor
27 market conditions, with special emphasis placed on recruiting
28 efforts to attract minorities, women, or other groups that are
29 underrepresented in the workforce of the employing agency.

30 (2) Recruiting efforts to fill current or projected
31 vacancies shall be carried out in the sound discretion of the

1 ~~agency head the responsibility of the employing agency.~~

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

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

11 (4)(5) ~~All recruitment literature printed after July~~
12 ~~1, 1979, involving state position vacancies shall contain the~~
13 ~~phrase "An Equal Opportunity Employer/Affirmative Action~~
14 ~~Employer."~~

15 (6) ~~The department shall develop model recruitment~~
16 ~~rules which may be used by employing agencies. Such rules~~
17 ~~must be approved by the Administration Commission before their~~
18 ~~adoption by the department. Employing agencies electing to~~
19 ~~adopt recruitment rules that are inconsistent with the model~~
20 ~~rules must consult with and submit such rules to the~~
21 ~~department for review. Such rules must also be approved by~~
22 ~~the Administration Commission before their adoption by the~~
23 ~~employing agencies.~~

24 Section 45. Section 110.213, Florida Statutes, is
25 renumbered as section 109.213, Florida Statutes, and amended
26 to read:

27 109.213 ~~110.213~~ Selection.--

28 (1) ~~The department shall have the responsibility for~~
29 ~~determining guidelines for selection procedures to be utilized~~
30 ~~by the employing agencies.~~

31 (2) ~~Any selection procedure utilized in state~~

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1 ~~employment shall be designed to provide maximum validity,~~
2 ~~reliability, and objectivity; shall be based on adequate job~~
3 ~~analysis to ensure job relatedness; and shall measure the~~
4 ~~relative ability, knowledge, and skill needed for entry to a~~
5 ~~job.~~

6 (1)(3) Selection for appointment from among the most
7 qualified candidates available eligibles shall be the sole
8 responsibility of the employing agency. Effective July 1,
9 2001, all new employees must successfully complete at least a
10 1-year probationary period before attainment of permanent
11 status.

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

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

29 Section 46. Sections 110.2135, 110.215, and 110.217,
30 Florida Statutes, are renumbered as sections 109.2135,
31 109.215, and 109.217, Florida Statutes, respectively.

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1 Section 47. Section 110.219, Florida Statutes, is
2 renumbered as section 109.219, Florida Statutes, and paragraph
3 (c) of subsection (5) of said section is amended, and,
4 effective July 1, 2001, subsections (6) and (7) are added to
5 said section, to read:

6 109.219 ~~110.219~~ Attendance and leave; general
7 policies.--

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

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

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

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

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

24 (b) No employee shall receive a payout of greater than
25 240 hours over the course of the employee's career with the
26 state, including any leave received at the time of separation.

27 Section 48. Section 110.221, Florida Statutes, is
28 renumbered as section 109.221, Florida Statutes.

29 Section 49. Section 110.224, Florida Statutes, is
30 renumbered as section 109.224, Florida Statutes, and amended
31 to read:

1 ~~109.224~~ 110.224 Public employee Review and performance
2 evaluation planning system.--A public employee review and
3 performance evaluation planning system shall be established as
4 a basis to evaluate and improve ~~for improving~~ the performance
5 of the state's workforce, ~~to provide documentation in support~~
6 ~~of recommendations for salary increases, promotions,~~
7 ~~demotions, reassignments, or dismissals,~~ to inform employees
8 of strong and weak points in the employee's performance, to
9 identify improvements expected, and current and future
10 training needs, and to award lump-sum bonuses in accordance
11 with s. 109.1245(2), ~~and to assist in determining the order of~~
12 ~~layoff and reemployment.~~

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

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

31 (3) The department may adopt rules to administer the

1 public employee review and performance evaluation planning
 2 system which establish procedures for performance evaluation,
 3 ~~procedures to be followed in case of failure to meet~~
 4 ~~performance standards~~, review periods, and forms.

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

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

16 (1) Any employee other than a law enforcement or
 17 correctional officer or a firefighter who has permanent status
 18 in the career service may only be suspended or dismissed for
 19 reasonable cause. Reasonable cause shall be a determination
 20 made within the sound discretion of the agency head and
 21 includes include, but is not ~~be~~ limited to, negligence,
 22 inefficiency or inability to perform assigned duties,
 23 insubordination, ~~willful~~ violation of the provisions of law or
 24 agency rules, conduct unbecoming a public employee,
 25 misconduct, habitual drug abuse, or conviction of any crime
 26 ~~involving moral turpitude~~. Suspension or dismissal based upon
 27 patronage, discrimination, or arbitrariness or for any conduct
 28 that is otherwise protected under state or federal law shall
 29 constitute an abuse of sound discretion. A law enforcement or
 30 correctional officer or a firefighter who has permanent status
 31 in the career service may only be suspended or dismissed for

1 just cause. ~~The Each~~ agency head shall ensure that all
2 employees of the agency have reasonable access to the agency's
3 personnel manual ~~are completely familiar with the agency's~~
4 ~~established procedures on disciplinary actions and grievances.~~

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

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

28 (b) Layoff procedures shall be developed to establish
29 the relative merit and fitness of employees and shall include
30 a formula for uniform application among potentially adversely
31 affected employees, or, with respect to law enforcement or

1 correctional officers or firefighters, among all employees in
2 the competitive area, taking into consideration the type of
3 appointment, the length of service, and the evaluations of the
4 employee's performance within the last 5 years of employment.

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

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

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1 the action to answer orally and in writing the charges against
2 him or her. The notice to the employee required by this
3 paragraph may be delivered to the employee personally or may
4 be sent by certified mail with return receipt requested. An
5 employee who is suspended or dismissed shall be entitled to a
6 hearing before the Public Employees Relations Commission or
7 its designated agent pursuant to s. 447.208 and rules adopted
8 by the commission.

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

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1 112.3187-112.31895, must be filed with the Commission on Human
2 Relations as provided for in that act.

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

18 (7)(6) A grievance process shall be available to
19 career 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 (8)(7) The department shall adopt rules for

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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, an affected employee other
15 than a law enforcement or correctional officer or a
16 firefighter shall be given an opportunity to appear before the
17 agency head or the agency head's designee to rebut the
18 conclusion that reasonable grounds exist for the suspension or
19 dismissal. Subsequent to such notice, and prior to the date
20 the action is to be taken, an affected law enforcement or
21 correctional officer or a firefighter shall be given an
22 opportunity to appear before the agency or official taking the
23 action to answer orally and in writing the charges against him
24 or her. The notice to the employee required by this paragraph
25 may be delivered to the employee personally or may be sent by
26 certified mail with return receipt requested. As of January 1,
27 2002, an employee who is suspended or dismissed shall be
28 entitled to a hearing before the circuit court, or the
29 aggrieved employee may request voluntary binding arbitration
30 as provided in s. 109.240 ~~Public Employees Relations~~
31 ~~Commission or its designated agent pursuant to s. 447.208 and~~

1 ~~rules adopted by the commission.~~ Appeals based on the
 2 protections provided by the Whistle-blower's Act, ss.
 3 112.3187-112.31895, must be filed with the Commission on Human
 4 Relations as provided for in that act.

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

8 109.233 ~~110.233~~ Political activities and unlawful acts
 9 prohibited.--

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

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

28 Section 53. Section 110.235, Florida Statutes, is
 29 renumbered as section 109.235, Florida Statutes, and
 30 subsection (1) of said section is amended to read:

31 109.235 ~~110.235~~ Training.--

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1 ~~(1) It is the intent of the Legislature that State~~
2 agencies shall implement training programs that encompass
3 modern management principles, and that provide the framework
4 to develop human resources through empowerment, training, and
5 rewards for productivity enhancement; to continuously improve
6 the quality of services; and to satisfy the expectations of
7 the public.

8 Section 54. Section 109.237, Florida Statutes, is
9 created to read:

10 109.237 Office of Employee Relations.--

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

1 establishing and implementing a training and education program
2 for all the office's employees with regard to their duties and
3 responsibilities, procedural requirements, and applicable law,
4 as appropriate for each employee's position.

5 (2) The executive director shall employ a general
6 counsel and an administrative assistant to meet immediate
7 staffing needs. The executive director, general counsel, and
8 administrative assistant shall be paid annual salaries to be
9 fixed by law. Such salaries shall be paid in equal monthly
10 installments. The executive director, general counsel, and
11 administrative assistant shall be reimbursed for necessary
12 travel expenses, as provided in s. 112.061. Effective December
13 1, 2001, the executive director shall have the authority to
14 employ such personnel as is necessary to carry out the duties
15 and responsibilities of the office. These personnel shall be
16 paid annual salaries fixed by law, in equal monthly
17 installments, and such personnel shall be reimbursed for
18 necessary travel expenses as provided in s. 112.061.

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

24 (4) The Department of Management Services shall
25 provide the necessary office space, furniture, equipment, and
26 supplies necessary for the startup of the office. The
27 department shall further provide administrative support and
28 service to the office to the extent requested by the executive
29 director within the available resources of the department. The
30 executive director may request the assistance of the Inspector
31 General of the Department of Management Services in providing

1 auditing services, and the Office of General Counsel of the
2 department may provide assistance in rulemaking and other
3 matters as needed to assist the office.

4 (5) The office shall make such expenditures, including
5 expenditures for personal services and rent at the seat of
6 government and elsewhere, for law books, books of reference,
7 periodicals, furniture, equipment, and supplies, and for
8 printing and binding, as may be necessary in exercising its
9 authority and powers and carrying out its duties and
10 responsibilities. All such expenditures by the office shall be
11 allowed and paid upon the presentation of itemized vouchers
12 therefor approved by the executive director.

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

15 (7) The office shall maintain and keep open during
16 reasonable business hours an office at which its public
17 records shall be kept. The office may conduct hearings at any
18 place within the state.

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

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

25 (10) Any hearing held or oral argument heard by the
26 office pursuant to chapter 120 or this chapter shall be open
27 to the public.

28 (11) Any hearing held by the office under this part
29 shall be conducted in accordance with the provisions of ss.
30 120.569 and 120.57 by an employee of the office, or a person
31 designated by the executive director, who is a member in good

1 standing of The Florida Bar.

2 Section 55. (1) Except as otherwise provided,
3 effective January 1, 2002, section 109.240, Florida Statutes,
4 is created to read:

5 109.240 Voluntary binding arbitration.--

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

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

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

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

24 (c) The employee will faithfully abide by the
25 arbitration order unless otherwise determined by a court of
26 competent jurisdiction.

27 (3) Upon receipt of the arbitration request, the
28 office shall provide written notice to the agency against
29 which a request is made regarding the employee request for
30 binding arbitration. The agency must participate in the
31 requested binding arbitration. Binding arbitration shall not

1 be conducted pursuant to this section unless the employee
2 requests it.

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

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

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

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

27 1. One panel member who is a member of the same pay
28 classification as the employee requesting the voluntary
29 binding arbitration, selected by that employee.

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

1 binding arbitration, selected by the employer.

2 3. One panel member jointly selected by the other two
3 panel members. If the two panel members do not agree on the
4 jointly selected panel member, within 10 working days after
5 the appeal is submitted, the parties shall jointly request the
6 Federal Mediation and Conciliation Service to furnish a panel
7 of seven names from which each party shall have the option,
8 within 5 days of receipt, of striking three names in
9 alternating fashion. The seventh or remaining name shall serve
10 as the third panel member. The parties shall jointly notify
11 the panel member of his or her selection. Either party may
12 object to all names on the list, provided the objection is
13 made prior to the commencement of the striking process. If
14 this occurs, the objecting party may request the Federal
15 Mediation and Conciliation Service to furnish another list of
16 names. No more than two lists may be requested.

17 (c) The employee panel shall receive procedural
18 direction and legal advice from the arbitrator appointed by
19 the office.

20 (d) No employee currently employed or employed within
21 the preceding 6 months by the agency participating in the
22 binding arbitration shall be selected for an employee panel.
23 Employees selected to serve on an employee panel shall hear
24 all evidence submitted by the parties in arbitration and their
25 decision shall be governed by the statutory burden of proof.
26 The office shall reimburse agencies for the daily tasks of
27 each agency employee that serves on an employee panel.

28 (e) The employee panel shall make all findings of fact
29 and determination of claims. The arbitrator shall draft the
30 arbitration decision for submission to the members of the
31 employee panel for their approval and signatures. Unless

1 otherwise provided in the decision, the decision shall become
2 final 10 days after its execution by the panel.

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

10 (7)(a) The arbitrator selected by the office shall not
11 be an employee within the Career Service System, the Select
12 Management Service, or the Selected Exempt Service. Each
13 selected arbitrator must, at a minimum, meet the following
14 requirements:

15 1. Completion of a Florida Supreme Court certified
16 circuit or county arbitration program, or other arbitration
17 program approved by the office, in addition to a minimum of 1
18 day of training in the application of this chapter and chapter
19 447 and any rules adopted thereunder.

20 2. Compliance with the Code of Ethics for Arbitrators
21 in Employment Disputes published by the American Arbitration
22 Association and the American Bar Association in 1977, as
23 amended.

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

25 (b) The arbitrator shall have authority to commence
26 and adjourn the arbitration hearing. The arbitrator shall not
27 have authority to hold any person in contempt or to in any way
28 impose sanctions against any person. The arbitrator shall
29 provide assistance to the employee panel on questions of law.

30 (c) The arbitrator shall schedule all arbitration
31 proceedings, including the date, time, and location of such

1 proceedings and provide notice of the arbitration proceeding
2 to the parties at least 5 days in advance of the hearing date,
3 unless otherwise agreed to by the parties. The arbitrator has
4 the discretion to grant a continuance for reasonable cause.

5 (d) The arbitrator may set a preliminary conference
6 and require all parties to file a statement of position prior
7 to the conference. The statement of position may include
8 stipulations of the parties to uncontested facts and
9 applicable law, citations to all governing statutory or
10 regulatory laws that control the controversy, a list of issues
11 of fact and law that are in dispute, any proposals designed to
12 expedite the arbitration process, a list of documents
13 exchanged by the parties and a schedule for the delivery of
14 any additional relevant documents, identification of witnesses
15 expected to be called during the arbitration proceeding
16 accompanied by a short summary of their expected testimony,
17 and any other matters specified by the arbitrator.

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

21 (a) Supporting the arbitration process, including the
22 filing and noticing of all arbitration requests, objections,
23 and other party communications; the selection of the
24 arbitrator; and the design and operation of the employee panel
25 pool.

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

28 1. Providing selection notice to all parties, the
29 arbitrator, and the employee panel participants.

30 2. Securing a signed disclosure statement from each
31 appointed arbitrator and selected employee describing any

1 circumstances likely to affect impartiality, including any
2 bias or any financial or personal interest with either party
3 or any present or past relationship with the employee seeking
4 binding arbitration, and making these disclosure statements
5 available to the parties. The duty to disclose shall be a
6 continuing obligation throughout the arbitration process.

7 3. Filling vacancies.

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

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

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

18 (9) The office shall maintain records of each dispute
19 submitted to voluntary binding arbitration, including the
20 recordings of the arbitration hearings. All records maintained
21 by the office under this section shall be public records and
22 shall be available for inspection upon reasonable notice.

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

25 (a) A party may object to the arbitrator or any
26 employee on the panel based on the arbitrator's or employee's
27 past or present, direct or indirect, relationship with either
28 party or either party's attorney, whether that relationship
29 was or is financial, professional, or social. The arbitrator
30 shall consider any objection to a panel employee, determine
31 its validity, and notify the parties of his or her

1 determination. If the objection is determined valid, the
2 office shall assign another employee from the employee panel
3 pool. The office shall consider any objection to the
4 arbitrator, determine its validity, and notify the parties of
5 its determination. If the objection is determined valid, the
6 office shall appoint another arbitrator.

7 (b) The arbitrator has the power to issue subpoenas,
8 and to effect discovery on the written request of any party by
9 any means available to the courts and in the manner provided
10 in the Florida Rules of Civil Procedure, including the
11 imposition of sanctions, excluding contempt. Fees for
12 attendance of witnesses shall be the same as that provided in
13 civil actions in circuit courts of this state.

14 (c) At all arbitration proceedings, the parties may
15 present oral and written testimony, present witnesses and
16 evidence relevant to the dispute, cross-examine witnesses, and
17 be represented by counsel. The arbitrator shall record the
18 arbitration hearing and shall have the power to administer
19 oaths.

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

25 (e) The employee panel shall render its decision
26 within 10 days after the closing of the hearing. The decision
27 shall be in writing on a form prescribed or adopted by the
28 office. The arbitrator shall send a copy of the decision to
29 the parties by registered mail.

30 (f) Unless otherwise provided, the arbitration
31 decision rendered by the employee panel and any appeals

1 thereof are exempt from the provisions of chapter 120.
2 (11)(a) The office shall establish rules of procedure
3 governing the arbitration process. Such rules shall include,
4 but are not limited to:
5 1. The exchange and filing of information among the
6 parties.
7 2. Discovery.
8 3. Offering evidence.
9 4. Calling and excluding witnesses.
10 5. Submitting evidence by affidavit.
11 6. Attendance of the parties and witnesses.
12 7. The order of proceedings.
13 (b) The office may adopt additional rules necessary to
14 implement this section.
15 (12) Either party may make application to the circuit
16 court for the county in which one of the parties resides or
17 has a place of business, or the county where the arbitration
18 hearing was held, for an order confirming, vacating, or
19 modifying the arbitration decision. Such application must be
20 filed within 30 days after the later of the moving party's
21 receipt of the written decision or the date the decision
22 becomes final. Upon filing such application, the moving party
23 shall mail a copy to the office and, upon entry of any
24 judgment or decree, shall mail a copy of such judgment or
25 decree to the office. A review of such application to circuit
26 court shall be limited to review on the record and not de
27 novo, of:
28 (a) Any alleged failure of the arbitrator to comply
29 with the applicable rules of procedure or evidence.
30 (b) Any alleged partiality or misconduct by an
31 arbitrator prejudicing the rights of any party.

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

3
4 If the arbitrator and employee panel fail to state findings or
5 reasons for the stated decision, or the findings and reasons
6 are inadequate, the court shall search the record to determine
7 whether a basis exists to uphold the decision.

8 (13) The office, the arbitrator, and the employee
9 panel shall have absolute immunity from liability arising from
10 the performance of their duties while acting within the scope
11 of their appointed function in any arbitration conducted under
12 this section.

13 (2) For purposes of rulemaking by the Office of
14 Employee Relations, subsection (11) of s. 109.240, Florida
15 Statutes, as created by this section, shall take effect July
16 1, 2001.

17 Section 56. Section 110.401, Florida Statutes, is
18 renumbered as section 109.401, Florida Statutes, and amended
19 to read:

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

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1 major administrative function within agencies.

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

5 109.402 ~~110.402~~ Senior Management Service; creation,
6 coverage.--

7 (2) The Senior Management Service shall be limited to
8 those positions which are exempt from the Career Service
9 System by s. 109.205(2)~~110.205(2)~~ and for which the salaries
10 and benefits are set by the department in accordance with the
11 rules of the Senior Management Service.

12 Section 58. Section 110.403, Florida Statutes, is
13 renumbered as section 109.403, Florida Statutes, and amended
14 to read:

15 109.403 ~~110.403~~ Powers and duties of the Department of
16 Management Services.--

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

21 (a) A system for employing, promoting, or reassigning
22 managers that is responsive to organizational or program
23 needs. In no event shall the number of positions included in
24 the Senior Management Service exceed 0.5 percent of the total
25 full-time equivalent positions in the career service. The
26 department shall deny approval to establish any position
27 within the Senior Management Service which would exceed the
28 limitation established in this paragraph. The department
29 shall report that the limitation has been reached to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives, as soon as practicable after such

1 event occurs. Employees in the Senior Management Service shall
2 serve at the pleasure of the agency head and shall be subject
3 to suspension, dismissal, reduction in pay, demotion,
4 transfer, or other personnel action at the discretion of the
5 agency head. Such personnel actions are exempt from the
6 provisions of chapter 120.

7 (b) A performance appraisal system which shall take
8 into consideration individual and organizational efficiency,
9 productivity, and effectiveness.

10 (c) A classification plan and a salary and benefit
11 plan that provides appropriate incentives for the recruitment
12 and retention of outstanding management personnel and provides
13 for salary increases based on performance.

14 (d) A system of rating duties and responsibilities for
15 positions within the Senior Management Service and the
16 qualifications of candidates for those positions.

17 (e) A system for documenting actions taken on agency
18 requests for approval of position exemptions and special pay
19 increases.

20 (f) Requirements regarding recordkeeping by agencies
21 with respect to Senior Management Service positions. Such
22 records shall be audited periodically by the department of
23 ~~Management Services~~ to determine agency compliance with the
24 provisions of this part and with the department's rules of the
25 ~~Department of Management Services~~.

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

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

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1 (2) The powers, duties, and functions of the
2 department ~~of Management Services~~ shall include responsibility
3 for the policy administration of the Senior Management
4 Service.

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

7 (a) To establish and administer a professional
8 development program which shall provide for the systematic
9 development of managerial, executive, or administrative
10 skills.

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

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

31 (4) All policies and procedures adopted by the

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1 department ~~of Management Services~~ regarding the Senior
2 Management Service shall comply with all federal regulations
3 necessary to permit the state agencies to be eligible to
4 receive federal funds.

5 (5) The department ~~of Management Services~~ shall adopt,
6 by rule, procedures for Senior Management Service employees
7 that require disclosure to the agency head of any application
8 for or offer of employment, gift, contractual relationship, or
9 financial interest with any individual, partnership,
10 association, corporation, utility, or other organization,
11 whether public or private, doing business with or subject to
12 regulation by the agency.

13 Section 59. Effective July 1, 2001, paragraph (a) of
14 subsection (1) of section 109.403, Florida Statutes, as
15 renumbered and amended by this act, is amended to read:

16 109.403 Powers and duties of the Department of
17 Management Services.--

18 (1) The department, after approval by the
19 Administration Commission, shall adopt and amend rules which
20 provide for:

21 (a) A system for employing, promoting, or reassigning
22 managers that is responsive to organizational or program
23 needs. In no event shall the number of positions included in
24 the Senior Management Service exceed 1.5 ~~0.5~~ percent of the
25 total full-time equivalent positions in the career service.
26 The department shall deny approval to establish any position
27 within the Senior Management Service which would exceed the
28 limitation established in this paragraph. The department
29 shall report that the limitation has been reached to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives, as soon as practicable after such

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1 event occurs. Employees in the Senior Management Service shall
2 serve at the pleasure of the agency head and shall be subject
3 to suspension, dismissal, reduction in pay, demotion,
4 transfer, or other personnel action at the discretion of the
5 agency head. Such personnel actions are exempt from the
6 provisions of chapter 120.

7 Section 60. Section 110.405, Florida Statutes, is
8 renumbered as section 109.405, Florida Statutes.

9 Section 61. Section 110.406, Florida Statutes, is
10 renumbered as section 109.406, Florida Statutes, and paragraph
11 (a) of subsection (2) and subsection (3) of said section are
12 amended to read:

13 109.406 ~~110.406~~ Senior Management Service; data
14 collection.--

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

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

19 (3) To assist in the preparation of the data required
20 by this section, the secretary may hire a consultant with
21 expertise in the field of personnel management and may use the
22 services of the advisory committee authorized in s. 109.405
23 ~~110.405~~.

24 Section 62. Section 110.501, Florida Statutes, is
25 renumbered as section 109.501, Florida Statutes.

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

29 109.502 ~~110.502~~ Scope of act; status of volunteers.--

30 (2) Volunteers recruited, trained, or accepted by any
31 state department or agency shall not be subject to any

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1 provisions of law relating to state employment, to any
2 collective bargaining agreement between the state and any
3 employees' association or union, or to any laws relating to
4 hours of work, rates of compensation, leave time, and employee
5 benefits, except those consistent with s. 109.504 ~~110.504~~.
6 However, all volunteers shall comply with applicable
7 department or agency rules.

8 (3) Every department or agency utilizing the services
9 of volunteers is hereby authorized to provide such incidental
10 reimbursement or benefit consistent with the provisions of s.
11 109.504 ~~110.504~~, including transportation costs, lodging, and
12 subsistence, recognition, and other accommodations as the
13 department or agency deems necessary to assist, recognize,
14 reward, or encourage volunteers in performing their functions.
15 No department or agency shall expend or authorize an
16 expenditure therefor in excess of the amount provided for to
17 the department or agency by appropriation in any fiscal year.

18 Section 64. Sections 110.503 and 110.504, Florida
19 Statutes, are renumbered as sections 109.503 and 109.504,
20 Florida Statutes, respectively.

21 Section 65. Section 110.601, Florida Statutes, is
22 renumbered as section 109.601, Florida Statutes, and amended
23 to read:

24 109.601 ~~110.601~~ Declaration of policy.--~~It is the~~
25 ~~purpose of~~ This part creates to create a system of personnel
26 management the purpose of which is to deliver ~~which ensures to~~
27 ~~the state the delivery of~~ high-quality performance by those
28 employees in select exempt classifications by facilitating the
29 state's ability to attract and retain qualified personnel in
30 these positions, while also providing sufficient management
31 flexibility to ensure that the workforce is responsive to

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1 agency needs. The Legislature recognizes that the public
2 interest is best served by developing and refining the
3 technical and managerial skills of its Selected Exempt Service
4 employees, and, to this end, technical training and management
5 development programs are regarded as a major administrative
6 function within agencies.

7 Section 66. Section 110.602, Florida Statutes, is
8 renumbered as section 109.602, Florida Statutes, and amended
9 to read:

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

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1 occurs.

2 Section 67. Effective July 1, 2001, section 109.602,
3 Florida Statutes, as renumbered and amended by this act, is
4 amended to read:

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

27 Section 68. Sections 110.603 and 110.604, Florida
28 Statutes, are renumbered as sections 109.603 and 109.604,
29 Florida Statutes, respectively.

30 Section 69. Section 110.605, Florida Statutes, is
31 renumbered as section 109.605, Florida Statutes, and

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1 subsection (1) of said section is amended to read:

2 109.605 ~~110.605~~ Powers and duties; personnel rules,
3 records, reports, and performance appraisal.--

4 (1) The department shall adopt and administer uniform
5 personnel rules, records, and reports relating to employees
6 and positions in the Selected Exempt Service, as well as any
7 other rules and procedures relating to personnel
8 administration which are necessary to carry out the purposes
9 of this part.

10 (a) The department shall develop uniform forms and
11 instructions to be used in reporting transactions which
12 involve changes in an employee's salary, status, performance,
13 leave, fingerprint record, loyalty oath, payroll change, or
14 appointment action or any additional transactions as the
15 department may deem appropriate.

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

19 (b)(c) The department shall develop a uniform
20 performance appraisal system for employees and positions in
21 the Selected Exempt Service covered by a collective bargaining
22 agreement. Each employing agency shall develop a performance
23 appraisal system for all other employees and positions in the
24 Selected Exempt System. Such agency system shall take into
25 consideration individual and organizational efficiency,
26 productivity, and effectiveness.

27 (c)(d) The employing agency must maintain, on a
28 current basis, all records and reports required by applicable
29 rules.The department shall periodically audit employing
30 agency records to determine compliance with the provisions of
31 this part and the rules of the department.

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

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

8 109.606 ~~110.606~~ Selected Exempt Service; data
 9 collection.--

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

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

12 1. A pricing analysis based on a market survey of
 13 positions comparable to those included in the Selected Exempt
 14 Service and recommendations with respect to whether, and to
 15 what extent, revisions to the salary ranges for the Selected
 16 Exempt Service classifications should be implemented.

17 2. An analysis of actual salary levels for each
 18 classification within the Selected Exempt Service, indicating
 19 the mean salary for each classification within the Selected
 20 Exempt Service and the deviation from such means with respect
 21 to each agency's salary practice in each classification;
 22 reviewing the duties and responsibilities in relation to the
 23 incumbents' salary levels, credentials, skills, knowledge, and
 24 abilities; and discussing whether the salary practices
 25 reflected thereby indicate interagency salary inequities among
 26 positions within the Selected Exempt Service.

27 Section 71. (1) Sections 109.105 through 109.191,
 28 Florida Statutes, are designated as part I of chapter 109,
 29 Florida Statutes, to be entitled "General State Employment
 30 Provisions."

31 (2) Sections 109.201 through 109.240, Florida

1 Statutes, are designated as part II of chapter 109, Florida
2 Statutes, to be entitled "Career Service System."

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

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

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

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

15 20.171 Department of Labor and Employment
16 Security.--There is created a Department of Labor and
17 Employment Security. The department shall operate its programs
18 in a decentralized fashion.

19 (2)

20 (c) The managers of all divisions and offices
21 specifically named in this section and the directors of the
22 five field offices are exempt from part II of chapter 109 ~~110~~
23 and are included in the Senior Management Service in
24 accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~. No other
25 assistant secretaries or senior management positions at or
26 above the division level, except those established in chapter
27 109 ~~110~~, may be created without specific legislative
28 authority.

29 (3)

30 (d)1. The secretary shall appoint a comptroller who
31 shall be responsible to the assistant secretary. This

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1 position is exempt from part II of chapter 109 ~~110~~.

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

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

30 4. The department shall, by rule or internal
31 management memoranda as required by chapter 120, provide for

1 the maintenance by the comptroller of financial records and
2 accounts of the department as will afford a full and complete
3 check against the improper payment of bills and provide a
4 system for the prompt payment of the just obligations of the
5 department, which records must at all times disclose:

6 a. The several appropriations available for the use of
7 the department.

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

10 c. The apportionment or division of all such
11 appropriations among the several counties and field offices,
12 when such apportionment or division is made.

13 d. The amount or portion of each such apportionment
14 against general contractual and other obligations of the
15 department.

16 e. The amount expended and still to be expended in
17 connection with each contractual and each other obligation of
18 the department.

19 f. The expense and operating costs of the various
20 activities of the department.

21 g. The receipts accruing to the department and the
22 distribution thereof.

23 h. The assets, investments, and liabilities of the
24 department.

25 i. The cash requirements of the department for a
26 36-month period.

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

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

31 Section 73. Subsection (3) of section 20.18, Florida

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1 Statutes, is amended to read:

2 20.18 Department of Community Affairs.--There is
3 created a Department of Community Affairs.

4 (3) Unless otherwise provided by law, the Secretary of
5 Community Affairs shall appoint the directors or executive
6 directors of any commission or council assigned to the
7 department, who shall serve at his or her pleasure as provided
8 for division directors in s. 109.205 ~~110.205~~. The appointment
9 or termination by the secretary will be done with the advice
10 and consent of the commission or council; and the director or
11 executive director may employ, subject to departmental rules
12 and procedures, such personnel as may be authorized and
13 necessary.

14 Section 74. Subsection (6) of section 20.21, Florida
15 Statutes, is amended to read:

16 20.21 Department of Revenue.--There is created a
17 Department of Revenue.

18 (6) Notwithstanding the provisions of s. 109.123
19 ~~110.123~~, relating to the state group insurance program, the
20 department may pay, or participate in the payment of, premiums
21 for health, accident, and life insurance for its full-time
22 out-of-state employees, pursuant to such rules as it may
23 adopt, and such payments shall be in addition to the regular
24 salaries of such full-time out-of-state employees.

25 Section 75. Paragraph (d) of subsection (1), paragraph
26 (h) of subsection (2), paragraphs (d), (f), (h), and (i) of
27 subsection (3), paragraphs (c) and (d) of subsection (4), and
28 subsection (5) of section 20.23, Florida Statutes, are amended
29 to read:

30 20.23 Department of Transportation.--There is created
31 a Department of Transportation which shall be a decentralized

1 agency.

2 (1)

3 (d) Any secretary appointed after July 5, 1989, and
4 the assistant secretaries shall be exempt from the provisions
5 of part III of chapter 109 ~~110~~ and shall receive compensation
6 commensurate with their qualifications and competitive with
7 compensation for comparable responsibility in the private
8 sector. When the salary of any assistant secretary exceeds
9 the limits established in part III of chapter 109 ~~110~~, the
10 Governor shall approve said salary.

11 (2)

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

25 (3)

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

28 a. Developing policy and procedures and monitoring
29 performance to ensure compliance with these policies and
30 procedures;

31 b. Performing statewide activities which it is more

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1 cost-effective to perform in a central location;

2 c. Assessing and ensuring the accuracy of information

3 within the department's financial management information

4 systems; and

5 d. Performing other activities of a statewide nature.

6 2. The following offices are established and shall be

7 headed by a manager, each of whom shall be appointed by and

8 serve at the pleasure of the secretary. The positions shall be

9 classified at a level equal to a division director:

10 a. The Office of Administration;

11 b. The Office of Policy Planning;

12 c. The Office of Design;

13 d. The Office of Highway Operations;

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

15 f. The Office of Toll Operations;

16 g. The Office of Information Systems; and

17 h. The Office of Motor Carrier Compliance.

18 3. Other offices may be established in accordance with

19 s. 20.04(7). The heads of such offices are exempt from part II

20 of chapter 109 ~~110~~. No office or organization shall be created

21 at a level equal to or higher than a division without specific

22 legislative authority.

23 4. During the construction of a major transportation

24 improvement project or as determined by the district

25 secretary, the department may provide assistance to a business

26 entity significantly impacted by the project if the entity is

27 a for-profit entity that has been in business for 3 years

28 prior to the beginning of construction and has direct or

29 shared access to the transportation project being constructed.

30 The assistance program shall be in the form of additional

31 guarantees to assist the impacted business entity in receiving

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1 loans pursuant to Title 13 C.F.R. part 120. However, in no
2 instance shall the combined guarantees be greater than 90
3 percent of the loan. The department shall adopt rules to
4 implement this subparagraph.

5 (f)1. Within the central office there is created an
6 Office of Management and Budget. The head of the Office of
7 Management and Budget is responsible to the Assistant
8 Secretary for Finance and Administration and is exempt from
9 part II of chapter 109 ~~110~~.

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

- 12 a. Preparation of the work program;
13 b. Preparation of the departmental budget; and
14 c. Coordination of related policies and procedures.

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

19 (h)1. The secretary shall appoint an inspector general
20 pursuant to s. 20.055. To comply with recommended professional
21 auditing standards related to independence and objectivity,
22 the inspector general shall be appointed to a position within
23 the Career Service System and may be removed by the secretary
24 with the concurrence of the Transportation Commission. In
25 order to attract and retain an individual who has the proven
26 technical and administrative skills necessary to comply with
27 the requirements of this section, the agency head may appoint
28 the inspector general to a classification level within the
29 Career Service System that is equivalent to that provided for
30 in part III of chapter 109 ~~110~~. The inspector general may be
31 organizationally located within another unit of the department

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1 for administrative purposes, but shall function independently
2 and be directly responsible to the secretary pursuant to s.
3 20.055. The duties of the inspector general shall include, but
4 are not restricted to, reviewing, evaluating, and reporting on
5 the policies, plans, procedures, and accounting, financial,
6 and other operations of the department and recommending
7 changes for the improvement thereof, as well as performing
8 audits of contracts and agreements between the department and
9 private entities or other governmental entities. The inspector
10 general shall give priority to reviewing major parts of the
11 department's accounting system and central office monitoring
12 function to determine whether such systems effectively ensure
13 accountability and compliance with all laws, rules, policies,
14 and procedures applicable to the operation of the department.
15 The inspector general shall also give priority to assessing
16 the department's management information systems as required by
17 s. 282.318. The internal audit function shall use the
18 necessary expertise, in particular, engineering, financial,
19 and property appraising expertise, to independently evaluate
20 the technical aspects of the department's operations. The
21 inspector general shall have access at all times to any
22 personnel, records, data, or other information of the
23 department and shall determine the methods and procedures
24 necessary to carry out his or her duties. The inspector
25 general is responsible for audits of departmental operations
26 and for audits of consultant contracts and agreements, and
27 such audits shall be conducted in accordance with generally
28 accepted governmental auditing standards. The inspector
29 general shall annually perform a sufficient number of audits
30 to determine the efficiency and effectiveness, as well as
31 verify the accuracy of estimates and charges, of contracts

1 executed by the department with private entities and other
2 governmental entities. The inspector general has the sole
3 responsibility for the contents of his or her reports, and a
4 copy of each report containing his or her findings and
5 recommendations shall be furnished directly to the secretary
6 and the commission.

7 2. In addition to the authority and responsibilities
8 herein provided, the inspector general is required to report
9 to the:

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

24 b. Transportation Commission and the Legislature any
25 actions by the secretary that prohibit the inspector general
26 from initiating, carrying out, or completing any audit after
27 the inspector general has decided to initiate, carry out, or
28 complete such audit. The secretary shall, within 30 days
29 after transmission of the report, set forth in a statement to
30 the Transportation Commission and the Legislature the reasons
31 for his or her actions.

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

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

1 3. The department shall by rule or internal management
2 memoranda as required by chapter 120 provide for the
3 maintenance by the comptroller of financial records and
4 accounts of the department as will afford a full and complete
5 check against the improper payment of bills and provide a
6 system for the prompt payment of the just obligations of the
7 department, which records must at all times disclose:

8 a. The several appropriations available for the use of
9 the department;

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

12 c. The apportionment or division of all such
13 appropriations among the several counties and districts, when
14 such apportionment or division is made;

15 d. The amount or portion of each such apportionment
16 against general contractual and other liabilities then
17 created;

18 e. The amount expended and still to be expended in
19 connection with each contractual and other obligation of the
20 department;

21 f. The expense and operating costs of the various
22 activities of the department;

23 g. The receipts accruing to the department and the
24 distribution thereof;

25 h. The assets, investments, and liabilities of the
26 department; and

27 i. The cash requirements of the department for a
28 36-month period.

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

31 5. The comptroller shall perform such other related

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1 duties as designated by the department.

2 (4)

3 (c) Each district secretary may appoint a district
4 director for planning and programming, a district director for
5 production, and a district director for operations. These
6 positions are exempt from part II of chapter 109 ~~110~~.

7 (d) Within each district, offices shall be established
8 for managing major functional responsibilities of the
9 department. The offices may include planning, design,
10 construction, right-of-way, maintenance, and public
11 transportation. The heads of these offices shall be exempt
12 from part II of chapter 109 ~~110~~.

13 (5) Notwithstanding the provisions of s. 109.205
14 ~~110.205~~, the Department of Management Services is authorized
15 to exempt positions within the Department of Transportation
16 which are comparable to positions within the Senior Management
17 Service pursuant to s. 109.205(2)(i) ~~110.205(2)(i)~~ or
18 positions which are comparable to positions in the Selected
19 Exempt Service under s. 109.205(2)(1) ~~110.205(2)(1)~~.

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

22 20.255 Department of Environmental Protection.--There
23 is created a Department of Environmental Protection.

24 (2)(a) There shall be three deputy secretaries who are
25 to be appointed by and shall serve at the pleasure of the
26 secretary. The secretary may assign any deputy secretary the
27 responsibility to supervise, coordinate, and formulate policy
28 for any division, office, or district. The following special
29 offices are established and headed by managers, each of whom
30 is to be appointed by and serve at the pleasure of the
31 secretary:

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- 1 1. Office of Chief of Staff,
- 2 2. Office of General Counsel,
- 3 3. Office of Inspector General,
- 4 4. Office of External Affairs,
- 5 5. Office of Legislative and Government Affairs, and
- 6 6. Office of Greenways and Trails.

7 (b) There shall be six administrative districts
 8 involved in regulatory matters of waste management, water
 9 resource management, wetlands, and air resources, which shall
 10 be headed by managers, each of whom is to be appointed by and
 11 serve at the pleasure of the secretary. Divisions of the
 12 department may have one assistant or two deputy division
 13 directors, as required to facilitate effective operation.

14
 15 The managers of all divisions and offices specifically named
 16 in this section and the directors of the six administrative
 17 districts are exempt from part II of chapter 109 ~~110~~ and are
 18 included in the Senior Management Service in accordance with
 19 s. 109.205(2)(i) ~~110.205(2)(i)~~.

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

23 20.315 Department of Corrections.--There is created a
 24 Department of Corrections.

25 (3) SECRETARY OF CORRECTIONS.--The head of the
 26 Department of Corrections is the Secretary of Corrections.
 27 The secretary is appointed by the Governor, subject to
 28 confirmation by the Senate, and shall serve at the pleasure of
 29 the Governor. The secretary is responsible for planning,
 30 coordinating, and managing the corrections system of the
 31 state. The secretary shall ensure that the programs and

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1 services of the department are administered in accordance with
2 state and federal laws, rules, and regulations, with
3 established program standards, and consistent with legislative
4 intent. The secretary shall identify the need for and
5 recommend funding for the secure and efficient operation of
6 the state correctional system.

7 (b) The secretary shall appoint a general counsel and
8 an inspector general, who are exempt from part II of chapter
9 109 ~~110~~ and are included in the Senior Management Service.

10 (6) FLORIDA CORRECTIONS COMMISSION.--

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

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

30 24.105 Powers and duties of department.--The
31 department shall:

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

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

30 Section 79. Paragraph (d) of subsection (4) of section
31 24.122, Florida Statutes, is amended to read:

1 24.122 Exemption from taxation; state preemption;
2 inapplicability of other laws.--

3 (4) Any state or local law providing any penalty,
4 disability, restriction, or prohibition for the possession,
5 manufacture, transportation, distribution, advertising, or
6 sale of any lottery ticket, including chapter 849, shall not
7 apply to the tickets of the state lottery operated pursuant to
8 this act; nor shall any such law apply to the possession of a
9 ticket issued by any other government-operated lottery. In
10 addition, activities of the department under this act are
11 exempt from the provisions of:

12 (d) Section 109.131 ~~110.131~~, relating to other
13 personal services.

14 Section 80. Subsection (1) of section 68.087, Florida
15 Statutes, is amended to read:

16 68.087 Exemptions to civil actions.--

17 (1) No court shall have jurisdiction over an action
18 brought under this act against a member of the Legislature, a
19 member of the judiciary, or a senior executive branch official
20 if the action is based on evidence or information known to the
21 state government when the action was brought. For purposes of
22 this subsection, the term "senior executive branch official"
23 means any person employed in the executive branch of
24 government holding a position in the Senior Management Service
25 as defined in s. 109.402 ~~110.402~~.

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

28 104.31 Political activities of state, county, and
29 municipal officers and employees.--

30 (3) Nothing contained in this section or in any county
31 or municipal charter shall be deemed to prohibit any public

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1 employee from expressing his or her opinions on any candidate
2 or issue or from participating in any political campaign
3 during the employee's off-duty hours, so long as such
4 activities are not in conflict with the provisions of
5 subsection (1) or s. 109.233 ~~110.233~~.

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

8 106.082 Commissioner of Agriculture candidates;
9 campaign contribution limits.--

10 (3) No employee of the Department of Agriculture may
11 solicit a campaign contribution for any candidate for the
12 office of Commissioner of Agriculture from any person or
13 business who is licensed, inspected, or otherwise authorized
14 to do business as a food outlet or convenience store pursuant
15 to chapter 500; or any director, officer, lobbyist, or
16 controlling interest of that person; or any political
17 committee or committee of continuous existence that represents
18 that person. For purposes of this section, "employee of the
19 department" means any person employed in the Department of
20 Agriculture holding a position in the Senior Management
21 Service as defined in s. 109.402 ~~110.402~~; any person holding a
22 position in the Selected Exempt Service as defined in s.
23 109.602 ~~110.602~~; any person having authority over food outlet
24 or convenience store regulation, or inspection supervision; or
25 any person, hired on a contractual basis, having the power
26 normally conferred upon such person, by whatever title.

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

29 106.24 Florida Elections Commission; membership;
30 powers; duties.--

31 (4) The commission shall appoint an executive

1 director, who shall serve under the direction, supervision,
 2 and control of the commission. The executive director, with
 3 the consent of the commission, shall employ such staff as are
 4 necessary to adequately perform the functions of the
 5 commission, within budgetary limitations. All employees,
 6 except the executive director and attorneys, are subject to
 7 part II of chapter 109 ~~110~~. The executive director shall
 8 serve at the pleasure of the commission and be subject to part
 9 III of chapter 109 ~~110~~, except that the commission shall have
 10 complete authority for setting the executive director's
 11 salary. Attorneys employed by the commission shall be subject
 12 to part V of chapter 109 ~~110~~.

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

15 112.044 Public employers, employment agencies, labor
 16 organizations; discrimination based on age prohibited;
 17 exceptions; remedy.--

18 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
 19 the state who is within the Career Service System established
 20 by chapter 109 ~~110~~ and who is aggrieved by a violation of this
 21 act may appeal to the Public Employees Relations Commission
 22 under the conditions and following the procedures prescribed
 23 in part II of chapter 447. Any person other than an employee
 24 who is within the Career Service System established by chapter
 25 109 ~~110~~, or any person employed by the Public Employees
 26 Relations Commission, who is aggrieved by a violation of this
 27 act may bring a civil action in any court of competent
 28 jurisdiction for such legal or equitable relief as will
 29 effectuate the purposes of this act.

30 Section 85. Section 112.0805, Florida Statutes, is
 31 amended to read:

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1 112.0805 Employer notice of insurance eligibility to
2 employees who retire.--Any employer who provides insurance
3 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify
4 those employees who retire of their eligibility to participate
5 in either the same group insurance plan or self-insurance plan
6 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the
7 insurance coverage as provided by this law.

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

10 112.313 Standards of conduct for public officers,
11 employees of agencies, and local government attorneys.--

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

14 (a)1. It is the intent of the Legislature to implement
15 by statute the provisions of s. 8(e), Art. II of the State
16 Constitution relating to legislators, statewide elected
17 officers, appointed state officers, and designated public
18 employees.

19 2. As used in this paragraph:

20 a. "Employee" means:

21 (I) Any person employed in the executive or
22 legislative branch of government holding a position in the
23 Senior Management Service as defined in s. 109.402 ~~110.402~~ or
24 any person holding a position in the Selected Exempt Service
25 as defined in s. 109.602 ~~110.602~~ or any person having
26 authority over policy or procurement employed by the
27 Department of the Lottery.

28 (II) The Auditor General, the Sergeant at Arms and
29 Secretary of the Senate, and the Sergeant at Arms and Clerk of
30 the House of Representatives.

31 (III) The executive director of the Legislative

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1 Committee on Intergovernmental Relations and the executive
2 director and deputy executive director of the Commission on
3 Ethics.

4 (IV) An executive director, staff director, or deputy
5 staff director of each joint committee, standing committee, or
6 select committee of the Legislature; an executive director,
7 staff director, executive assistant, analyst, or attorney of
8 the Office of the President of the Senate, the Office of the
9 Speaker of the House of Representatives, the Senate Majority
10 Party Office, Senate Minority Party Office, House Majority
11 Party Office, or House Minority Party Office; or any person,
12 hired on a contractual basis, having the power normally
13 conferred upon such persons, by whatever title.

14 (V) The Chancellor and Vice Chancellors of the State
15 University System; the general counsel to the Board of
16 Regents; and the president, vice presidents, and deans of each
17 state university.

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

20 b. "Appointed state officer" means any member of an
21 appointive board, commission, committee, council, or authority
22 of the executive or legislative branch of state government
23 whose powers, jurisdiction, and authority are not solely
24 advisory and include the final determination or adjudication
25 of any personal or property rights, duties, or obligations,
26 other than those relative to its internal operations.

27 c. "State agency" means an entity of the legislative,
28 executive, or judicial branch of state government over which
29 the Legislature exercises plenary budgetary and statutory
30 control.

31 3. No member of the Legislature, appointed state

1 officer, or statewide elected officer shall personally
2 represent another person or entity for compensation before the
3 government body or agency of which the individual was an
4 officer or member for a period of 2 years following vacation
5 of office. No member of the Legislature shall personally
6 represent another person or entity for compensation during his
7 or her term of office before any state agency other than
8 judicial tribunals or in settlement negotiations after the
9 filing of a lawsuit.

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

15 5. Any person violating this paragraph shall be
16 subject to the penalties provided in s. 112.317 and a civil
17 penalty of an amount equal to the compensation which the
18 person receives for the prohibited conduct.

19 6. This paragraph is not applicable to:

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

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

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

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

31 e. Any appointed state officer whose term of office

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1 began before January 1, 1995, unless reappointed to that
2 office on or after January 1, 1995.

3 Section 87. Paragraph (a) of subsection (5) of section
4 112.3189, Florida Statutes, is amended to read:

5 112.3189 Investigative procedures upon receipt of
6 whistle-blower information from certain state employees.--

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

30 1. The gravity of the disclosed information compared
31 to the time and expense of an investigation.

1 2. The potential for an investigation to yield
2 recommendations that will make state government more efficient
3 and effective.

4 3. The benefit to state government to have a final
5 report on the disclosed information.

6 4. Whether the alleged whistle-blower information
7 primarily concerns personnel practices that may be
8 investigated under chapter 109 ~~110~~.

9 5. Whether another agency may be conducting an
10 investigation and whether any investigation under this section
11 could be duplicative.

12 6. The time that has elapsed between the alleged event
13 and the disclosure of the information.

14 Section 88. Subsection (2) of section 112.363, Florida
15 Statutes, is amended to read:

16 112.363 Retiree health insurance subsidy.--

17 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
18 SUBSIDY.--A person who is retired under a state-administered
19 retirement system, or a beneficiary who is a spouse or
20 financial dependent entitled to receive benefits under a
21 state-administered retirement system, is eligible for health
22 insurance subsidy payments provided under this section; except
23 that pension recipients under ss. 121.40, 238.07(16)(a), and
24 250.22, recipients of health insurance coverage under s.
25 109.1232 ~~110.1232~~, or any other special pension or relief act
26 shall not be eligible for such payments. Payment of the
27 retiree health insurance subsidy shall be made only after
28 coverage for health insurance for the retiree or beneficiary
29 has been certified in writing to the Department of Management
30 Services. Participation in a former employer's group health
31 insurance program is not a requirement for eligibility under

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1 this section. However, participants in the Senior Management
 2 Service Optional Annuity Program as provided in s. 121.055(6)
 3 and the State University System Optional Retirement Program as
 4 provided in s. 121.35 shall not receive the retiree health
 5 insurance subsidy provided in this section. The employer of
 6 such participant shall pay the contributions required in
 7 subsection (8) to the annuity program provided in s.
 8 121.055(6)(d) or s. 121.35(4)(a), as applicable.

9 Section 89. Effective July 1, 2001, paragraph (a) of
 10 subsection (2) of section 112.363, Florida Statutes, as
 11 amended by chapter 2000-169, Laws of Florida, is amended to
 12 read:

13 112.363 Retiree health insurance subsidy.--

14 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
 15 SUBSIDY.--

16 (a) A person who is retired under a state-administered
 17 retirement system, or a beneficiary who is a spouse or
 18 financial dependent entitled to receive benefits under a
 19 state-administered retirement system, is eligible for health
 20 insurance subsidy payments provided under this section; except
 21 that pension recipients under ss. 121.40, 238.07(16)(a), and
 22 250.22, recipients of health insurance coverage under s.
 23 109.1232 ~~110.1232~~, or any other special pension or relief act
 24 shall not be eligible for such payments.

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

27 121.021 Definitions.--The following words and phrases
 28 as used in this chapter have the respective meanings set forth
 29 unless a different meaning is plainly required by the context:

30 (38) "Continuous service" means creditable service as
 31 a member, beginning with the first day of employment with an

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1 employer covered under a state-administered retirement system
2 consolidated herein and continuing for as long as the member
3 remains in an employer-employee relationship with an employer
4 covered under this chapter. An absence of 1 calendar month or
5 more from an employer's payroll shall be considered a break in
6 continuous service, except for periods of absence during which
7 an employer-employee relationship continues to exist and such
8 period of absence is creditable under this chapter or under
9 one of the existing systems consolidated herein. However, a
10 law enforcement officer as defined in s. 121.0515(2)(a) who
11 was a member of a state-administered retirement system under
12 chapter 122 or chapter 321 and who resigned and was
13 subsequently reemployed in a law enforcement position within
14 12 calendar months of such resignation by an employer under
15 such state-administered retirement system shall be deemed to
16 have not experienced a break in service. Further, with respect
17 to a state-employed law enforcement officer who meets the
18 criteria specified in s. 121.0515(2)(a), if the absence from
19 the employer's payroll is the result of a "layoff" as defined
20 in s. 109.203(24)~~110.203(24)~~ or a resignation to run for an
21 elected office that meets the criteria specified in s.
22 121.0515(2)(a), no break in continuous service shall be deemed
23 to have occurred if the member is reemployed as a state law
24 enforcement officer or is elected to an office which meets the
25 criteria specified in s. 121.0515(2)(a) within 12 calendar
26 months after the date of the layoff or resignation,
27 notwithstanding the fact that such period of layoff or
28 resignation is not creditable service under this chapter. A
29 withdrawal of contributions will constitute a break in
30 service. Continuous service also includes past service
31 purchased under this chapter, provided such service is

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1 continuous within this definition and the rules established by
2 the administrator. The administrator may establish
3 administrative rules and procedures for applying this
4 definition to creditable service authorized under this
5 chapter. Any correctional officer, as defined in s. 943.10,
6 whose participation in the state-administered retirement
7 system is terminated due to the transfer of a county detention
8 facility through a contractual agreement with a private entity
9 pursuant to s. 951.062, shall be deemed an employee with
10 continuous service in the Special Risk Class, provided return
11 to employment with the former employer takes place within 3
12 years due to contract termination or the officer is employed
13 by a covered employer in a special risk position within 1 year
14 after his or her initial termination of employment by such
15 transfer of its detention facilities to the private entity.

16 Section 91. Paragraph (b) of subsection (3) of section
17 121.0515, Florida Statutes, is amended to read:

18 121.0515 Special risk membership.--

19 (3) PROCEDURE FOR DESIGNATING.--

20 (b)1. Applying the criteria set forth in this section,
21 the Department of Management Services shall specify which
22 current and newly created classes of positions under the
23 uniform classification plan established pursuant to chapter
24 109 ~~110~~ entitle the incumbents of positions in those classes
25 to membership in the Special Risk Class. Only employees
26 employed in the classes so specified shall be special risk
27 members.

28 2. When a class is not specified by the department as
29 provided in subparagraph 1., the employing agency may petition
30 the State Retirement Commission for approval in accordance
31 with s. 121.23.

1 Section 92. Paragraph (a) of subsection (1) of section
2 121.055, Florida Statutes, is amended to read:

3 121.055 Senior Management Service Class.--There is
4 hereby established a separate class of membership within the
5 Florida Retirement System to be known as the "Senior
6 Management Service Class," which shall become effective
7 February 1, 1987.

8 (1)(a) Participation in the Senior Management Service
9 Class shall be limited to and compulsory for any member of the
10 Florida Retirement System who holds a position in the Senior
11 Management Service of the State of Florida, established by
12 part III of chapter 109 110, unless such member elects, within
13 the time specified herein, to participate in the Senior
14 Management Service Optional Annuity Program as established in
15 subsection (6).

16 Section 93. Paragraph (a) of subsection (2) of section
17 121.35, Florida Statutes, is amended to read:

18 121.35 Optional retirement program for the State
19 University System.--

20 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
21 PROGRAM.--

22 (a) Participation in the optional retirement program
23 provided by this section shall be limited to persons who are
24 otherwise eligible for membership in the Florida Retirement
25 System; who are employed or appointed for no less than one
26 academic year; and who are employed in one of the following
27 State University System positions:

28 1. Positions classified as instructional and research
29 faculty which are exempt from the career service under the
30 provisions of s. 109.205(2)(d)110.205(2)(d).

31 2. Positions classified as administrative and

1 professional which are exempt from the career service under
2 the provisions of s. 109.205(2)(d)~~110.205(2)(d)~~.

3 3. The Chancellor and the university presidents.

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

6 215.94 Designation, duties, and responsibilities of
7 functional owners.--

8 (5) The Department of Management Services shall be the
9 functional owner of the Cooperative Personnel Employment
10 Subsystem. The department shall design, implement, and
11 operate the subsystem in accordance with the provisions of ss.
12 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall
13 include, but shall not be limited to, functions for:

14 (a) Maintenance of employee and position data,
15 including funding sources and percentages and salary lapse.
16 The employee data shall include, but not be limited to,
17 information to meet the payroll system requirements of the
18 Department of Banking and Finance and to meet the employee
19 benefit system requirements of the Department of Management
20 Services.

21 (b) Recruitment and examination.

22 (c) Time reporting.

23 (d) Collective bargaining.

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

26 216.011 Definitions.--

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

30 Section 96. Paragraph (a) of subsection (2) of section
31 216.251, Florida Statutes, is amended to read:

1 216.251 Salary appropriations; limitations.--

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

5 1. Within the classification and pay plans provided
6 for in chapter 109 ~~110~~.

7 2. Within the classification and pay plans established
8 by the Board of Trustees for the Florida School for the Deaf
9 and the Blind of the Department of Education and approved by
10 the State Board of Education for academic and academic
11 administrative personnel.

12 3. Within the classification and pay plan approved and
13 administered by the Board of Regents for those positions in
14 the State University System.

15 4. Within the classification and pay plan approved by
16 the President of the Senate and the Speaker of the House of
17 Representatives, as the case may be, for employees of the
18 Legislature.

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

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

24 Section 97. Section 231.381, Florida Statutes, is
25 amended to read:

26 231.381 Transfer of sick leave and annual leave.--In
27 implementing the provisions of ss. 230.23(4)(n) and
28 402.22(1)(d), educational personnel in Department of Children
29 and Family Services residential care facilities who are
30 employed by a district school board may request, and the
31 district school board shall accept, a lump-sum transfer of

1 accumulated sick leave for such personnel to the maximum
 2 allowed by policies of the district school board,
 3 notwithstanding the provisions of s. 109.122 ~~110.122~~.
 4 Educational personnel in Department of Children and Family
 5 Services residential care facilities who are employed by a
 6 district school board under the provisions of s. 402.22(1)(d)
 7 may request, and the district school board shall accept, a
 8 lump-sum transfer of accumulated annual leave for each person
 9 employed by the district school board in a position in the
 10 district eligible to accrue vacation leave under policies of
 11 the district school board.

12 Section 98. Paragraph (c) of subsection (1) of section
 13 235.217, Florida Statutes, is amended to read:

14 235.217 SMART (Soundly Made, Accountable, Reasonable,
 15 and Thrifty) Schools Clearinghouse.--

16 (1)

17 (c) The clearinghouse is assigned to the Department of
 18 Management Services for administrative and fiscal
 19 accountability purposes, but it shall otherwise function
 20 independently of the control and direction of the department,
 21 except as otherwise provided in chapters 109 ~~110~~, 255, and 287
 22 for agencies of the executive branch.

23 Section 99. Paragraph (f) of subsection (3) of section
 24 240.209, Florida Statutes, is amended to read:

25 240.209 Board of Regents; powers and duties.--

26 (3) The board shall:

27 (f) Establish and maintain systemwide personnel
 28 programs for all State University System employees, including
 29 a systemwide personnel classification and pay plan,
 30 notwithstanding provisions of law that grant authority to the
 31 Department of Management Services over such programs for state

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1 employees. The board shall consult with the legislative
 2 appropriations committees regarding any major policy changes
 3 related to classification and pay which are in conflict with
 4 those policies in effect for career service employees with
 5 similar job classifications and responsibilities. The board
 6 may adopt rules relating to the appointment, employment, and
 7 removal of personnel which delegate its authority to the
 8 Chancellor or the universities. The board shall submit, in a
 9 manner prescribed by law, any reports concerning State
 10 University System personnel programs as shall be required of
 11 the Department of Management Services for other state
 12 employees. The Department of Management Services shall retain
 13 authority over State University System employees for programs
 14 established in ss. 109.116, 109.123, 109.1232, 109.1234, and
 15 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~
 16 and in chapters 121, 122, and 238. The board shall adopt rules
 17 to provide for a coordinated, efficient systemwide program and
 18 shall delegate to the universities authority for implementing
 19 the program consistent with these coordinating rules so
 20 adopted and applicable collective bargaining agreements. The
 21 salary rate controls for positions in budgets under the Board
 22 of Regents shall separately delineate the general faculty and
 23 all other categories.

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

26 240.2111 Employee recognition program.--

27 (1)(a) Notwithstanding the provisions of s. 109.1245
 28 ~~110.1245~~, the Board of Regents and each university shall
 29 promulgate rules for an employee recognition program which
 30 provides for the following components:

31 1. A superior accomplishment component to recognize

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1 employees who have contributed outstanding and meritorious
2 service in their fields, including those who have made
3 exceptional contributions to efficiency, economy, or other
4 improvement in State University System operations. No cash
5 award under the superior accomplishment component of the
6 program shall exceed \$1,000, excluding applicable taxes.

7 2. A satisfactory service component to recognize
8 employees who have achieved increments of 5 continuous years
9 of satisfactory service to the Board of Regents, university,
10 or state in appreciation and recognition of such service. No
11 cash award granted under the satisfactory service component
12 shall exceed \$50, excluding applicable taxes.

13 Section 101. Section 240.507, Florida Statutes, is
14 amended to read:

15 240.507 Extension personnel; federal health insurance
16 programs notwithstanding the provisions of s. 109.123
17 ~~110.123~~.--The Institute of Food and Agricultural Sciences at
18 the University of Florida is authorized to pay the employer's
19 share of premiums to the Federal Health Benefits Insurance
20 Program from its appropriated budget for any cooperative
21 extension employee of the institute having both state and
22 federal appointments and participating in the Federal Civil
23 Service Retirement System.

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

26 241.002 Duties of the Department of Education.--The
27 duties of the Department of Education concerning distance
28 learning include, but are not limited to, the duty to:

29 (9) Hire appropriate staff which may include a
30 position that shall be exempt from part II of chapter 109 ~~110~~
31 and is included in the Senior Management Service in accordance

1 with s. 109.205 ~~110.205~~.

2

3 Nothing in ss. 241.001-241.004 shall be construed to abrogate,
4 supersede, alter, or amend the powers and duties of any state
5 agency, district school board, community college board of
6 trustees, the State Board of Community Colleges, or the Board
7 of Regents.

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

10 242.331 Florida School for the Deaf and the Blind;
11 board of trustees.--

12 (6) The board of trustees shall:

13 (b) Administer and maintain personnel programs for all
14 employees of the board of trustees and the Florida School for
15 the Deaf and the Blind who shall be state employees, including
16 the personnel classification and pay plan established in
17 accordance with ss. 109.205(2)(d)~~110.205(2)(d)~~and
18 216.251(2)(a)2. for academic and academic administrative
19 personnel, the provisions of chapter 109 ~~110~~, and the
20 provisions of law that grant authority to the Department of
21 Management Services over such programs for state employees.

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

24 260.0125 Limitation on liability of private landowners
25 whose property is designated as part of the statewide system
26 of greenways and trails.--

27 (2) Any private landowner who consents to designation
28 of his or her land as part of the statewide system of
29 greenways and trails pursuant to s. 260.016(2)(d) without
30 compensation shall be considered a volunteer, as defined in s.
31 109.501 ~~110.501~~, and shall be covered by state liability

1 protection pursuant to s. 768.28, including s. 768.28(9).

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

4 281.02 Powers and duties of the Department of
5 Management Services, Florida Capitol Police.--The Department
6 of Management Services, Florida Capitol Police, has the
7 following powers and duties:

8 (4) To employ:

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

14 Section 106. Section 287.175, Florida Statutes, is
15 amended to read:

16 287.175 Penalties.--A violation of this part or a rule
17 adopted hereunder, pursuant to applicable constitutional and
18 statutory procedures, constitutes misuse of public position as
19 defined in s. 112.313(6), and is punishable as provided in s.
20 112.317. The Comptroller shall report incidents of suspected
21 misuse to the Commission on Ethics, and the commission shall
22 investigate possible violations of this part or rules adopted
23 hereunder when reported by the Comptroller, notwithstanding
24 the provisions of s. 112.324. Any violation of this part or a
25 rule adopted hereunder shall be presumed to have been
26 committed with wrongful intent, but such presumption is
27 rebuttable. Nothing in this section is intended to deny
28 rights provided to career service employees by s. 109.227
29 ~~110.227~~.

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

1 288.708 Executive director; employees.--

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

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

8 295.07 Preference in appointment and retention.--

9 (4) The following positions are exempt from this
10 section:

11 (a) Those positions that are exempt from the state
12 Career Service System under s. 109.205(2)~~110.205(2)~~; however,
13 all positions under the University Support Personnel System of
14 the State University System as well as all Career Service
15 System positions under the Florida Community College System
16 and the School for the Deaf and the Blind are included.

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

20 296.04 Administrator; duties and qualifications;
21 responsibilities.--

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

1 relating to administration of a health care facility.

2 (4)

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

7 Section 110. Subsection (1) and paragraph (b) of
8 subsection (4) of section 296.34, Florida Statutes, are
9 amended to read:

10 296.34 Administrator; qualifications, duties, and
11 responsibilities.--

12 (1) The director shall appoint an administrator of the
13 home who shall be the chief executive of the home. The
14 position shall be assigned to the Selected Exempt Service
15 under part V of chapter 109 ~~110~~. The director shall give
16 preference in appointment as provided in ss. 295.07 and
17 295.085 to applicants for the position of administrator.

18 (4)

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

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

25 311.07 Florida seaport transportation and economic
26 development funding.--

27 (5) Any port which receives funding under the program
28 shall institute procedures to ensure that jobs created as a
29 result of the state funding shall be subject to equal
30 opportunity hiring practices in the manner provided in s.
31 109.112 ~~110.112~~.

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

3 339.175 Metropolitan planning organization.--It is the
4 intent of the Legislature to encourage and promote the safe
5 and efficient management, operation, and development of
6 surface transportation systems that will serve the mobility
7 needs of people and freight within and through urbanized areas
8 of this state while minimizing transportation-related fuel
9 consumption and air pollution. To accomplish these objectives,
10 metropolitan planning organizations, referred to in this
11 section as M.P.O.'s, shall develop, in cooperation with the
12 state and public transit operators, transportation plans and
13 programs for metropolitan areas. The plans and programs for
14 each metropolitan area must provide for the development and
15 integrated management and operation of transportation systems
16 and facilities, including pedestrian walkways and bicycle
17 transportation facilities that will function as an intermodal
18 transportation system for the metropolitan area, based upon
19 the prevailing principles provided in s. 334.046(1). The
20 process for developing such plans and programs shall provide
21 for consideration of all modes of transportation and shall be
22 continuing, cooperative, and comprehensive, to the degree
23 appropriate, based on the complexity of the transportation
24 problems to be addressed.

25 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
26 COUNCIL.--

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

29 1. Enter into contracts with individuals, private
30 corporations, and public agencies.

31 2. Acquire, own, operate, maintain, sell, or lease

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1 personal property essential for the conduct of business.

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

4 4. Establish bylaws and adopt rules pursuant to ss.
5 120.536(1) and 120.54 to implement provisions of law
6 conferring powers or duties upon it.

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

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

15 7. Employ an executive director and such other staff
16 as necessary to perform adequately the functions of the
17 council, within budgetary limitations. The executive director
18 and staff are exempt from part II of chapter 109 ~~110~~ and serve
19 at the direction and control of the council. The council is
20 assigned to the Office of the Secretary of the Department of
21 Transportation for fiscal and accountability purposes, but it
22 shall otherwise function independently of the control and
23 direction of the department.

24 8. Adopt an agency strategic plan that provides the
25 priority directions the agency will take to carry out its
26 mission within the context of the state comprehensive plan and
27 any other statutory mandates and directions given to the
28 agency.

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

31 343.74 Powers and duties.--

104

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

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

7 381.85 Biomedical and social research.--

8 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL
 9 RESEARCH.--

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

14 Section 115. Section 393.0657, Florida Statutes, is
 15 amended to read:

16 393.0657 Persons not required to be refingerprinted or
 17 rescreened.--Any provision of law to the contrary
 18 notwithstanding, human resource personnel who have been
 19 fingerprinted or screened pursuant to chapters 393, 394, 397,
 20 402, and 409, and teachers who have been fingerprinted
 21 pursuant to chapter 231, who have not been unemployed for more
 22 than 90 days thereafter, and who under the penalty of perjury
 23 attest to the completion of such fingerprinting or screening
 24 and to compliance with the provisions of this section and the
 25 standards for good moral character as contained in such
 26 provisions as ss. 109.1127(3)~~110.1127(3)~~, 393.0655(1),
 27 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be
 28 required to be refingerprinted or rescreened in order to
 29 comply with any direct service provider screening or
 30 fingerprinting requirements.

31 Section 116. Subsection (3) of section 400.19, Florida

1 Statutes, is amended to read:

2 400.19 Right of entry and inspection.--

3 (3) The agency shall every 15 months conduct at least
4 one unannounced inspection to determine compliance by the
5 licensee with statutes, and with rules promulgated under the
6 provisions of those statutes, governing minimum standards of
7 construction, quality and adequacy of care, and rights of
8 residents. The agency shall verify through subsequent
9 inspection that any deficiency identified during the annual
10 inspection is corrected. However, the agency may verify the
11 correction of a class III deficiency unrelated to resident
12 rights or resident care without reinspecting the facility if
13 adequate written documentation has been received from the
14 facility, which provides assurance that the deficiency has
15 been corrected. The giving or causing to be given of advance
16 notice of such unannounced inspections by an employee of the
17 agency to any unauthorized person shall constitute cause for
18 suspension of not fewer than 5 working days according to the
19 provisions of chapter 109 ~~110~~.

20 Section 117. Subsection (3) of section 400.953,
21 Florida Statutes, is amended to read:

22 400.953 Background screening of home medical equipment
23 provider personnel.--The agency shall require employment
24 screening as provided in chapter 435, using the level 1
25 standards for screening set forth in that chapter, for home
26 medical equipment provider personnel.

27 (3) Proof of compliance with the screening
28 requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.
29 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.
30 464.008, or s. 985.407 or this part must be accepted in lieu
31 of the requirements of this section if the person has been

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1 continuously employed in the same type of occupation for which
2 he or she is seeking employment without a breach in service
3 that exceeds 180 days, the proof of compliance is not more
4 than 2 years old, and the person has been screened by the
5 Department of Law Enforcement. An employer or contractor shall
6 directly provide proof of compliance to another employer or
7 contractor, and a potential employer or contractor may not
8 accept any proof of compliance directly from the person
9 requiring screening. Proof of compliance with the screening
10 requirements of this section shall be provided, upon request,
11 to the person screened by the home medical equipment provider.

12 Section 118. Section 402.3057, Florida Statutes, is
13 amended to read:

14 402.3057 Persons not required to be refingerprinted or
15 rescreened.--Any provision of law to the contrary
16 notwithstanding, human resource personnel who have been
17 fingerprinted or screened pursuant to chapters 393, 394, 397,
18 402, and 409, and teachers and noninstructional personnel who
19 have been fingerprinted pursuant to chapter 231, who have not
20 been unemployed for more than 90 days thereafter, and who
21 under the penalty of perjury attest to the completion of such
22 fingerprinting or screening and to compliance with the
23 provisions of this section and the standards for good moral
24 character as contained in such provisions as ss. 109.1127(3)
25 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
26 409.175(4), shall not be required to be refingerprinted or
27 rescreened in order to comply with any caretaker screening or
28 fingerprinting requirements.

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

31 402.55 Management fellows program.--

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1 (4) Notwithstanding the provisions of chapter 109 110,
2 the departments may grant special pay increases to management
3 fellows upon successful completion of the program.

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

6 402.731 Department of Children and Family Services
7 certification programs for employees and service providers;
8 employment provisions for transition to community-based
9 care.--

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

22 Section 121. Section 409.1757, Florida Statutes, is
23 amended to read:

24 409.1757 Persons not required to be refingerprinted or
25 rescreened.--Any provision of law to the contrary
26 notwithstanding, human resource personnel who have been
27 fingerprinted or screened pursuant to chapters 393, 394, 397,
28 402, and this chapter, and teachers who have been
29 fingerprinted pursuant to chapter 231, who have not been
30 unemployed for more than 90 days thereafter, and who under the
31 penalty of perjury attest to the completion of such

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1 fingerprinting or screening and to compliance with the
2 provisions of this section and the standards for good moral
3 character as contained in such provisions as ss. 109.1127(3)
4 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
5 409.175(4), shall not be required to be refingerprinted or
6 rescreened in order to comply with any caretaker screening or
7 fingerprinting requirements.

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

10 440.102 Drug-free workplace program requirements.--The
11 following provisions apply to a drug-free workplace program
12 implemented pursuant to law or to rules adopted by the Agency
13 for Health Care Administration:

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

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

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

28 440.4416 Workers' Compensation Oversight Board.--

29 (3) EXECUTIVE DIRECTOR; EXPENSES.--

30 (a) The board shall appoint an executive director to
31 direct and supervise the administrative affairs and general

1 management of the board who shall be subject to the provisions
2 of part V ~~IV~~ of chapter 109 ~~110~~. The executive director may
3 employ persons and obtain technical assistance as authorized
4 by the board and shall attend all meetings of the board. Board
5 employees shall be exempt from part II of chapter 109 ~~110~~.

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

8 443.171 Division and commission; powers and duties;
9 rules; advisory council; records and reports; proceedings;
10 state-federal cooperation.--

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

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

25 447.207 Commission; powers and duties.--

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

29 (a) Section 109.124 ~~110.124~~, relating to termination
30 or transfer of State Career Service System employees aged 65
31 or older.

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

3 456.048 Financial responsibility requirements for
4 certain health care practitioners.--

5 (2) The board or department may grant exemptions upon
6 application by practitioners meeting any of the following
7 criteria:

8 (a) Any person licensed under chapter 457, chapter
9 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who
10 practices exclusively as an officer, employee, or agent of the
11 Federal Government or of the state or its agencies or its
12 subdivisions. For the purposes of this subsection, an agent
13 of the state, its agencies, or its subdivisions is a person
14 who is eligible for coverage under any self-insurance or
15 insurance program authorized by the provisions of s.
16 768.28(15) or who is a volunteer under s. 109.501(1)
17 ~~110.501(1)~~.

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

20 471.038 Florida Engineers Management Corporation.--

21 (3) The Florida Engineers Management Corporation is
22 created to provide administrative, investigative, and
23 prosecutorial services to the board in accordance with the
24 provisions of chapter 455 and this chapter. The management
25 corporation may hire staff as necessary to carry out its
26 functions. Such staff are not public employees for the
27 purposes of chapter 109 ~~110~~ or chapter 112, except that the
28 board of directors and the staff are subject to the provisions
29 of s. 112.061. The provisions of s. 768.28 apply to the
30 management corporation, which is deemed to be a corporation
31 primarily acting as an instrumentality of the state, but which

1 is not an agency within the meaning of s. 20.03(11). The
2 management corporation shall:

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

5 (b) Provide administrative, investigative, and
6 prosecutorial services to the board in accordance with the
7 provisions of chapter 455, this chapter, and the contract
8 required by this section.

9 (c) Receive, hold, and administer property and make
10 only prudent expenditures directly related to the
11 responsibilities of the board, and in accordance with the
12 contract required by this section.

13 (d) Be approved by the board and the department to
14 operate for the benefit of the board and in the best interest
15 of the state.

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

18 (f) Have a seven-member board of directors, five of
19 whom are to be appointed by the board and must be registrants
20 regulated by the board and two of whom are to be appointed by
21 the secretary and must be laypersons not regulated by the
22 board. All initial appointments shall expire on October 31,
23 2000. Current members may be appointed to one additional term
24 that complies with the provisions of this paragraph. Two
25 members shall be appointed for 2 years, three members shall be
26 appointed for 3 years, and two members shall be appointed for
27 4 years. One layperson shall be appointed to a 3-year term and
28 one layperson shall be appointed to a 4-year term. Thereafter,
29 all appointments shall be for 4-year terms. No new member
30 shall serve more than two consecutive terms. Failure to attend
31 three consecutive meetings shall be deemed a resignation from

1 the board, and the vacancy shall be filled by a new
2 appointment.

3 (g) Select its officers in accordance with its bylaws.
4 The members of the board of directors may be removed by the
5 board, with the concurrence of the department, for the same
6 reasons that a board member may be removed.

7 (h) Use a portion of the interest derived from the
8 management corporation account to offset the costs associated
9 with the use of credit cards for payment of fees by applicants
10 or licensees.

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

14 1. Approval of the articles of incorporation and
15 bylaws of the management corporation by the department and the
16 board.

17 2. Submission by the management corporation of an
18 annual budget that complies with board rules for approval by
19 the board and the department.

20 3. Annual certification by the board and the
21 department that the management corporation is complying with
22 the terms of the contract in a manner consistent with the
23 goals and purposes of the board and in the best interest of
24 the state. This certification must be reported in the board's
25 minutes. The contract must also provide for methods and
26 mechanisms to resolve any situation in which the certification
27 process determines noncompliance.

28 4. Employment by the department of a contract
29 administrator to actively supervise the administrative,
30 investigative, and prosecutorial activities of the management
31 corporation to ensure compliance with the contract and the

1 provisions of chapter 455 and this chapter and to act as a
2 liaison for the department, the board, and the management
3 corporation to ensure the effective operation of the
4 management corporation.

5 5. Funding of the management corporation through
6 appropriations allocated to the regulation of professional
7 engineers from the Professional Regulation Trust Fund.

8 6. The reversion to the board, or the state if the
9 board ceases to exist, of moneys, records, data, and property
10 held in trust by the management corporation for the benefit of
11 the board, if the management corporation is no longer approved
12 to operate for the board or the board ceases to exist. All
13 records and data in a computerized database shall be returned
14 to the department in a form that is compatible with the
15 computerized database of the department.

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

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1 8. Payment by the management corporation, out of its
2 allocated budget, to the department of all costs of
3 representation by the board counsel, including salary and
4 benefits, travel, and any other compensation traditionally
5 paid by the department to other board counsels.

6 9. Payment by the management corporation, out of its
7 allocated budget, to the department of all costs incurred by
8 the management corporation or the board for the Division of
9 Administrative Hearings of the Department of Management
10 Services and any other cost for utilization of these state
11 services.

12 10. Payment by the management corporation, out of its
13 allocated budget, to the department of all costs associated
14 with the contract administrator of the department, including
15 salary and benefits, travel, and other related costs
16 traditionally paid to state employees.

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

28 (k) Provide for persons charged with the
29 responsibility of receiving and depositing fee and fine
30 revenues to have a faithful performance bond in such an amount
31 and according to such terms as shall be determined in the

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1 contract.

2 (1) Submit to the secretary, the board, and the
3 Legislature, on or before January 1 of each year, a report on
4 the status of the corporation which includes, but is not
5 limited to, information concerning the programs and funds that
6 have been transferred to the corporation. The report must
7 include: the number of license applications received; the
8 number approved and denied and the number of licenses issued;
9 the number of examinations administered and the number of
10 applicants who passed or failed the examination; the number of
11 complaints received; the number determined to be legally
12 sufficient; the number dismissed; the number determined to
13 have probable cause; the number of administrative complaints
14 issued and the status of the complaints; and the number and
15 nature of disciplinary actions taken by the board.

16 (m) Develop, with the department, performance
17 standards and measurable outcomes for the board to adopt by
18 rule in order to facilitate efficient and cost-effective
19 regulation.

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

22 509.036 Public food service inspector
23 standardization.--

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

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

1 509.036 Public food service inspector
2 standardization.--

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

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

10 570.073 Department of Agriculture and Consumer
11 Services, law enforcement officers.--

12 (1) The commissioner may create an Office of
13 Agricultural Law Enforcement under the supervision of a senior
14 manager exempt under s. 109.205 ~~110.205~~ in the Senior
15 Management Service. The commissioner may designate law
16 enforcement officers, as necessary, to enforce any criminal
17 law or conduct any criminal investigation relating to any
18 matter over which the department has jurisdiction or which
19 occurs on property owned, managed, or occupied by the
20 department. Those matters include laws relating to:

21 (a) Domesticated animals, including livestock,
22 poultry, aquaculture products, and other wild or domesticated
23 animals or animal products.

24 (b) Farms, farm equipment, livery tack, citrus or
25 citrus products, or horticultural products.

26 (c) Trespass, littering, forests, forest fires, and
27 open burning.

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

29 (e) Enforcement of a marketing order.

30 (f) Protection of consumers.

31 (g) Civil traffic offenses provided for in chapters

1 316, 320, and 322, subject to the provisions of chapter 318,
2 relating to any matter over which the department has
3 jurisdiction or committed on property owned, managed, or
4 occupied by the department.

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

7 (i) Any emergency situation in which the life, limb,
8 or property of any person is placed in immediate and serious
9 danger.

10 (j) Any crime incidental to or related to paragraphs
11 (a)-(i).

12 Section 131. Section 570.074, Florida Statutes, is
13 amended to read:

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

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

27 624.307 General powers; duties.--

28 (6) The department may employ actuaries who shall be
29 at-will employees and who shall serve at the pleasure of the
30 Insurance Commissioner. Actuaries employed pursuant to this
31 paragraph shall be members of the Society of Actuaries or the

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1 Casualty Actuarial Society and shall be exempt from the Career
2 Service System established under chapter 109 ~~110~~. The
3 salaries of the actuaries employed pursuant to this paragraph
4 by the department shall be set in accordance with s.
5 216.251(2)(a)5. and shall be set at levels which are
6 commensurate with salary levels paid to actuaries by the
7 insurance industry.

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

10 627.0623 Restrictions on expenditures and
11 solicitations of insurers and affiliates.--

12 (4) No employee of the department may solicit a
13 campaign contribution for the Treasurer or any candidate for
14 the office of Treasurer from any insurer, affiliate, or
15 officer of an insurer or affiliate, or any political committee
16 or committee of continuous existence that represents such
17 insurer, affiliate, or officer. For purposes of this section,
18 "employee of the department" means any person employed in the
19 Department of Insurance or the Treasurer's office holding a
20 position in the Senior Management Service as defined in s.
21 109.402 ~~110.402~~; any person holding a position in the Selected
22 Exempt Service as defined in s. 109.602 ~~110.602~~; any person
23 having authority over insurance policy, regulation, or
24 supervision; or any person hired on a contractual basis,
25 having the power normally conferred upon such person, by
26 whatever title.

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

29 627.6488 Florida Comprehensive Health Association.--

30 (4) The association shall:

31 (h) Contract with preferred provider organizations and

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1 health maintenance organizations giving due consideration to
2 the preferred provider organizations and health maintenance
3 organizations which have contracted with the state group
4 health insurance program pursuant to s. 109.123 ~~110.123~~. If
5 cost-effective and available in the county where the
6 policyholder resides, the board, upon application or renewal
7 of a policy, shall place a high-risk individual, as
8 established under s. 627.6498(4)(a)4., with the plan case
9 manager who shall determine the most cost-effective quality
10 care system or health care provider and shall place the
11 individual in such system or with such health care provider.
12 If cost-effective and available in the county where the
13 policyholder resides, the board, with the consent of the
14 policyholder, may place a low-risk or medium-risk individual,
15 as established under s. 627.6498(4)(a)4., with the plan case
16 manager who may determine the most cost-effective quality care
17 system or health care provider and shall place the individual
18 in such system or with such health care provider. Prior to and
19 during the implementation of case management, the plan case
20 manager shall obtain input from the policyholder, parent, or
21 guardian.

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

24 627.649 Administrator.--

25 (1) The board shall select an administrator, through a
26 competitive bidding process, to administer the plan. The
27 board shall evaluate bids submitted under this subsection
28 based on criteria established by the board, which criteria
29 shall include:

30 (a) The administrator's proven ability to handle large
31 group accident and health insurance, and due consideration

1 shall be given to any administrator who has acted as a
2 third-party administrator for the state group health insurance
3 program pursuant to s. 109.123 ~~110.123~~.

4 Section 136. Paragraph (a) of subsection (2) and
5 subsection (3) of section 627.6498, Florida Statutes, are
6 amended to read:

7 627.6498 Minimum benefits coverage; exclusions;
8 premiums; deductibles.--

9 (2) BENEFITS.--

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

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

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1 insured, the case manager, and the board.

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

4 627.6617 Coverage for home health care services.--

5 (4) The provisions of this section shall not apply to
6 a multiple-employer welfare arrangement as defined in s.
7 624.437(1) and in the State Health Plan as provided in s.
8 109.123 ~~110.123~~.

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

11 655.019 Campaign contributions; limitations.--

12 (3) No employee of the department may solicit a
13 campaign contribution for the Comptroller or any candidate for
14 the office of the Comptroller from any person who is licensed
15 or otherwise authorized to do business by the department or
16 who has an application pending for licensure or other
17 authorization to do business pending with the department, or
18 any director, officer, employee, agent, retained legal
19 counsel, lobbyist, or partner or affiliate of that person or
20 any political committee or committee of continuous existence
21 that represents that person. For purposes of this section,
22 "employee of the department" means any person employed in the
23 department or the Comptroller's office holding a position in
24 the Senior Management Service as defined in s. 109.402
25 ~~110.402~~; any person holding a position in the Selected Exempt
26 Service as defined in s. 109.602 ~~110.602~~; any person having
27 authority over institution policy, regulation, or supervision;
28 or any person hired on a contractual basis, having the power
29 normally conferred upon such person, by whatever title.

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

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1 943.0585 Court-ordered expunction of criminal history
2 records.--The courts of this state have jurisdiction over
3 their own procedures, including the maintenance, expunction,
4 and correction of judicial records containing criminal history
5 information to the extent such procedures are not inconsistent
6 with the conditions, responsibilities, and duties established
7 by this section. Any court of competent jurisdiction may
8 order a criminal justice agency to expunge the criminal
9 history record of a minor or an adult who complies with the
10 requirements of this section. The court shall not order a
11 criminal justice agency to expunge a criminal history record
12 until the person seeking to expunge a criminal history record
13 has applied for and received a certificate of eligibility for
14 expunction pursuant to subsection (2). A criminal history
15 record that relates to a violation of chapter 794, s. 800.04,
16 s. 817.034, s. 827.071, chapter 839, s. 893.135, or a
17 violation enumerated in s. 907.041 may not be expunged,
18 without regard to whether adjudication was withheld, if the
19 defendant was found guilty of or pled guilty or nolo
20 contendere to the offense, or if the defendant, as a minor,
21 was found to have committed, or pled guilty or nolo contendere
22 to committing, the offense as a delinquent act. The court may
23 only order expunction of a criminal history record pertaining
24 to one arrest or one incident of alleged criminal activity,
25 except as provided in this section. The court may, at its sole
26 discretion, order the expunction of a criminal history record
27 pertaining to more than one arrest if the additional arrests
28 directly relate to the original arrest. If the court intends
29 to order the expunction of records pertaining to such
30 additional arrests, such intent must be specified in the
31 order. A criminal justice agency may not expunge any record

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1 | pertaining to such additional arrests if the order to expunge
2 | does not articulate the intention of the court to expunge a
3 | record pertaining to more than one arrest. This section does
4 | not prevent the court from ordering the expunction of only a
5 | portion of a criminal history record pertaining to one arrest
6 | or one incident of alleged criminal activity. Notwithstanding
7 | any law to the contrary, a criminal justice agency may comply
8 | with laws, court orders, and official requests of other
9 | jurisdictions relating to expunction, correction, or
10 | confidential handling of criminal history records or
11 | information derived therefrom. This section does not confer
12 | any right to the expunction of any criminal history record,
13 | and any request for expunction of a criminal history record
14 | may be denied at the sole discretion of the court.

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

29 | (a) The person who is the subject of a criminal
30 | history record that is expunged under this section or under
31 | other provisions of law, including former s. 893.14, former s.

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1 901.33, and former s. 943.058, may lawfully deny or fail to
 2 acknowledge the arrests covered by the expunged record, except
 3 when the subject of the record:

- 4 1. Is a candidate for employment with a criminal
 5 justice agency;
- 6 2. Is a defendant in a criminal prosecution;
- 7 3. Concurrently or subsequently petitions for relief
 8 under this section or s. 943.059;
- 9 4. Is a candidate for admission to The Florida Bar;
- 10 5. Is seeking to be employed or licensed by or to
 11 contract with the Department of Children and Family Services
 12 or the Department of Juvenile Justice or to be employed or
 13 used by such contractor or licensee in a sensitive position
 14 having direct contact with children, the developmentally
 15 disabled, the aged, or the elderly as provided in s.
 16 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
 17 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
 18 415.102(4), s. 985.407, or chapter 400; or
- 19 6. Is seeking to be employed or licensed by the Office
 20 of Teacher Education, Certification, Staff Development, and
 21 Professional Practices of the Department of Education, any
 22 district school board, or any local governmental entity that
 23 licenses child care facilities.

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

26 943.059 Court-ordered sealing of criminal history
 27 records.--The courts of this state shall continue to have
 28 jurisdiction over their own procedures, including the
 29 maintenance, sealing, and correction of judicial records
 30 containing criminal history information to the extent such
 31 procedures are not inconsistent with the conditions,

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

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1 to the contrary, a criminal justice agency may comply with
2 laws, court orders, and official requests of other
3 jurisdictions relating to sealing, correction, or confidential
4 handling of criminal history records or information derived
5 therefrom. This section does not confer any right to the
6 sealing of any criminal history record, and any request for
7 sealing a criminal history record may be denied at the sole
8 discretion of the court.

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

19 (a) The subject of a criminal history record sealed
20 under this section or under other provisions of law, including
21 former s. 893.14, former s. 901.33, and former s. 943.058, may
22 lawfully deny or fail to acknowledge the arrests covered by
23 the sealed record, except when the subject of the record:

- 24 1. Is a candidate for employment with a criminal
25 justice agency;
- 26 2. Is a defendant in a criminal prosecution;
- 27 3. Concurrently or subsequently petitions for relief
28 under this section or s. 943.0585;
- 29 4. Is a candidate for admission to The Florida Bar;
- 30 5. Is seeking to be employed or licensed by or to
31 contract with the Department of Children and Family Services

1 or the Department of Juvenile Justice or to be employed or
 2 used by such contractor or licensee in a sensitive position
 3 having direct contact with children, the developmentally
 4 disabled, the aged, or the elderly as provided in s.
 5 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
 6 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
 7 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

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

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

15 943.22 Salary incentive program for full-time
 16 officers.--

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

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

23 944.35 Authorized use of force; malicious battery and
 24 sexual misconduct prohibited; reporting required; penalties.--

25 (3)

26 (c) Notwithstanding prosecution, any violation of the
 27 provisions of this subsection, as determined by the Public
 28 Employees Relations Commission, shall constitute sufficient
 29 cause under s. 109.227 ~~110.227~~ for dismissal from employment
 30 with the department, and such person shall not again be
 31 employed in any capacity in connection with the correctional

1 system.

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

4 945.043 Department-operated day care services.--

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

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

9 957.03 Correctional Privatization Commission.--

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

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

27 985.04 Oaths; records; confidential information.--

28 (2) Records maintained by the Department of Juvenile
29 Justice, including copies of records maintained by the court,
30 which pertain to a child found to have committed a delinquent
31 act which, if committed by an adult, would be a crime

1 specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457,
2 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed
3 pursuant to this section, except in cases of the death of the
4 child. Such records, however, shall be sealed by the court for
5 use only in meeting the screening requirements for personnel
6 in s. 402.3055 and the other sections cited above, or pursuant
7 to departmental rule; however, current criminal history
8 information must be obtained from the Department of Law
9 Enforcement in accordance with s. 943.053. The information
10 shall be released to those persons specified in the above
11 cited sections for the purposes of complying with those
12 sections. The court may punish by contempt any person who
13 releases or uses the records for any unauthorized purpose.

14 Section 146. Paragraph (e) of subsection (4) of
15 section 985.05, Florida Statutes, is amended to read:

16 985.05 Court records.--

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

20 (e) Records of proceedings under this part may be used
21 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,
22 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
23 409.176, and 985.407.

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

26 985.4045 Sexual misconduct prohibited; reporting
27 required; penalties.--

28 (1)

29 (b) Notwithstanding prosecution, any violation of this
30 subsection, as determined by the Public Employees Relations
31 Commission, constitutes sufficient cause under s. 109.227

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1 ~~110.227~~ for dismissal from employment with the department, and
2 such person may not again be employed in any capacity in
3 connection with the juvenile justice system.

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

6 216.262 Authorized positions.--

7 (1)

8 (c)1. The Executive Office of the Governor, under such
9 procedures and qualifications as it deems appropriate, shall,
10 upon agency request, delegate to any state agency authority to
11 add and delete authorized positions or transfer authorized
12 positions from one budget entity to another budget entity
13 within the same division, and may approve additions and
14 deletions of authorized positions or transfers of authorized
15 positions within the state agency when such changes would
16 enable the agency to administer more effectively its
17 authorized and approved programs. The additions or deletions
18 must be consistent with the intent of the approved operating
19 budget, must be consistent with legislative policy and intent,
20 and must not conflict with specific spending policies
21 specified in the General Appropriations Act.

22 2. The Chief Justice of the Supreme Court shall have
23 the authority to establish procedures for the judicial branch
24 to add and delete authorized positions or transfer authorized
25 positions from one budget entity to another budget entity, and
26 to add and delete authorized positions within the same budget
27 entity, when such changes are consistent with legislative
28 policy and intent and do not conflict with spending policies
29 specified in the General Appropriations Act.

30 3.a. A state agency may be eligible for an efficiency
31 award based on changes to authorized positions. To be

1 eligible, the agency must submit an application to the
2 Legislative Budgeting Commission identifying the modification
3 to an approved program resulting in efficiency and cost
4 savings.

5 b. The amount of the efficiency award shall be
6 determined by the Legislative Budgeting Commission but shall
7 not exceed the actual savings of currently appropriated funds.
8 In determining the amount of the award, the Legislative
9 Budgeting Commission shall consider the actual savings for the
10 current year and the annualized savings. The efficiency award
11 may be used for nonrecurring purposes only.

12 c. Each state agency allowed to retain salary
13 appropriations pursuant to this subparagraph shall submit in
14 its next legislative budget request a schedule showing how the
15 agency utilized such funds.

16 Section 149. Effective January 1, 2002, section
17 447.201, Florida Statutes, is amended to read:

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

30 (1) Granting to public employees the right of
31 organization and representation;

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

4 (3) Creating a Public Employees Relations Commission
5 to assist in resolving disputes between public employees and
6 public employers; and

7 (4) Recognizing the constitutional prohibition against
8 strikes by public employees and providing remedies for
9 violations of such prohibition.

10 Section 150. Effective January 1, 2002, subsections
11 (1), (3), and (4) of section 447.205, Florida Statutes, are
12 amended to read:

13 447.205 Public Employees Relations Commission.--

14 (1) ~~There is hereby created within the Department of~~
15 ~~Labor and Employment Security~~ The Public Employees Relations
16 Commission, hereinafter referred to as the "commission, -" ~~The~~
17 ~~commission~~ shall be composed of a chair and two full-time
18 members to be appointed by the Governor, subject to
19 confirmation by the Senate, from persons representative of the
20 public and known for their objective and independent judgment,
21 who shall not be employed by, or hold any commission with, any
22 governmental unit in the state or any employee organization,
23 as defined in this part, while in such office. In no event
24 shall more than one appointee be a person who, on account of
25 previous vocation, employment, or affiliation, is, or has
26 been, classified as a representative of employers; and in no
27 event shall more than one such appointee be a person who, on
28 account of previous vocation, employment, or affiliation, is,
29 or has been, classified as a representative of employees or
30 employee organizations. The commissioners shall devote full
31 time to commission duties and shall not engage in any other

1 business, vocation, or employment while in such office.
2 Beginning January 1, 1980, the chair shall be appointed for a
3 term of 4 years, one commissioner for a term of 1 year, and
4 one commissioner for a term of 2 years. Thereafter, every term
5 of office shall be for 4 years; and each term of the office of
6 chair shall commence on January 1 of the second year following
7 each regularly scheduled general election at which a Governor
8 is elected to a full term of office. In the event of a
9 vacancy prior to the expiration of a term of office, an
10 appointment shall be made for the unexpired term of that
11 office. The chair shall be responsible for the administrative
12 functions of the commission and shall have the authority to
13 employ such personnel as may be necessary to carry out the
14 provisions of this part. Once appointed to the office of
15 chair, the chair shall serve as chair for the duration of the
16 term of office of chair. Nothing contained herein prohibits a
17 chair or commissioner from serving multiple terms.

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

22 (4) The property, personnel, and appropriations
23 related to the commission's specified authority, powers,
24 duties, and responsibilities shall be provided to the
25 commission by the Department of Management Services ~~Labor and~~
26 ~~Employment Security~~.

27 Section 151. Effective January 1, 2002, subsections
28 (8), (9), (10), and (11) of section 447.207, Florida Statutes,
29 are repealed.

30 Section 152. Effective July 1, 2001, section 447.208,
31 Florida Statutes, is amended to read:

1 447.208 Procedure for ~~with respect to~~ certain appeals
2 under s. 447.207.--

3 (1) Any person filing an appeal pursuant to subsection
4 (8) or subsection (9) of s. 447.207 shall be entitled to a
5 hearing pursuant to subsections (4) and (5) of s. 447.503 and
6 in accordance with chapter 120; however, the hearing shall be
7 conducted within 30 days of the filing of an appeal with the
8 commission, unless an extension of time is granted by the
9 commission for good cause. Discovery may be granted only upon
10 a showing of extraordinary circumstances. A party requesting
11 discovery shall demonstrate a substantial need for the
12 information requested and an inability to obtain relevant
13 information by other means. To the extent that chapter 120 is
14 inconsistent with these provisions, the procedures contained
15 in this section shall govern.

16 (2) This section does not prohibit any person from
17 representing himself or herself in proceedings before the
18 commission or from being represented by legal counsel or by
19 any individual who qualifies as a representative pursuant to
20 rules promulgated and adopted by the commission.

21 (3) With respect to hearings relating to demotions,
22 suspensions, or dismissals pursuant to the provisions of this
23 section:

24 (a)1. For an alleged adverse agency action against an
25 employee, except a law enforcement or correctional officer or
26 a firefighter, occurring on or after July 1, 2001, the burden
27 of proof shall be on the employee requesting the appeal to
28 establish by a preponderance of the evidence that the agency
29 head abused his or her discretion in demoting, suspending, or
30 dismissing the employee and that no reasonable cause existed
31 for the alleged adverse action taken by the agency.

1 2.(a) Upon a finding that the adversely affected
2 employee was unable to establish that the agency head abused
3 his or her discretion and was unable to establish that no
4 reasonable ~~just~~ cause existed for the demotion, suspension, or
5 dismissal, the commission shall affirm the demotion,
6 suspension, or dismissal.

7 3.(b) Upon a finding that the adversely affected
8 employee established that the agency head abused his or her
9 discretion and that no reasonable ~~just~~ cause existed ~~did not~~
10 exist for the demotion, suspension, or dismissal, the
11 commission may order the reinstatement of the employee, with
12 or without back pay.

13 (b) With regard to a law enforcement or correctional
14 officer or a firefighter:

15 1. Upon a finding that just cause existed for the
16 demotion, suspension, or dismissal, the commission shall
17 affirm the demotion, suspension, or dismissal.

18 2. Upon a finding that just cause did not exist for
19 the demotion, suspension, or dismissal, the commission may
20 order the reinstatement of the law enforcement or correctional
21 officer or firefighter, with or without back pay.

22 3.(c) Upon a finding that just cause for disciplinary
23 action existed, but did not justify the severity of the action
24 taken, the commission may, in its limited discretion, reduce
25 the penalty.

26 (d) The commission is limited in its discretionary
27 reduction of dismissals and suspensions to consider only the
28 following circumstances:

29 a.1. The seriousness of the conduct as it relates to
30 the employee's duties and responsibilities.

31 b.2. Action taken with respect to similar conduct by

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1 other employees.

2 ~~c.3.~~ The previous employment record and disciplinary
3 record of the employee.

4 ~~d.4.~~ Extraordinary circumstances beyond the employee's
5 control which temporarily diminished the employee's capacity
6 to effectively perform his or her duties or which
7 substantially contributed to the violation for which
8 punishment is being considered.

9
10 The agency may present evidence to refute the existence of
11 these circumstances.

12 ~~(c)(e)~~ Any order of the commission issued pursuant to
13 this subsection may include back pay, if applicable, and an
14 amount, to be determined by the commission and paid by the
15 agency, for reasonable attorney's fees, witness fees, and
16 other out-of-pocket expenses incurred during the prosecution
17 of an appeal against an agency in which the commission finds
18 sustains the employee met his or her burden of proof by
19 establishing that the agency head abused his or her discretion
20 and that no reasonable cause existed for the employee's
21 demotion, suspension, or dismissal. In determining the amount
22 of an attorney's fee, the commission shall consider only the
23 number of hours reasonably spent on the appeal, comparing the
24 number of hours spent on similar Career Service System appeals
25 and the reasonable hourly rate charged in the geographic area
26 for similar appeals, but not including litigation over the
27 amount of the attorney's fee. ~~This paragraph applies to future~~
28 ~~and pending cases.~~

29 Section 153. Effective January 1, 2002, sections
30 447.208 and 447.2085, Florida Statutes, are repealed.

31 Section 154. Paragraph (i) is added to subsection (4)

1 of section 447.307, Florida Statutes, to read:

2 447.307 Certification of employee organization.--

3 (4) In defining a proposed bargaining unit, the
4 commission shall take into consideration:

5 (i) Notwithstanding any other provision of law,
6 administrative rule, or decision to the contrary, it is in the
7 best interest of the state that all state law enforcement
8 agencies with 1,200 or more officers shall be placed in a
9 separate bargaining unit from officers in other state law
10 enforcement agencies. Should application of this requirement
11 result in the establishment or recomposition of more than one
12 state law enforcement bargaining unit, a question concerning
13 representation shall be deemed to have arisen for each
14 affected bargaining unit and, upon appropriate petition, a
15 representation election to determine the bargaining
16 representative shall be conducted.

17
18 However, no unit shall be established or approved for purposes
19 of collective bargaining which includes both professional and
20 nonprofessional employees unless a majority of each group
21 votes for inclusion in such unit.

22 Section 155. Effective July 1, 2001, paragraph (a) of
23 subsection (6) of section 447.503, Florida Statutes, is
24 amended to read:

25 447.503 Charges of unfair labor practices.--It is the
26 intent of the Legislature that the commission act as
27 expeditiously as possible to settle disputes regarding alleged
28 unfair labor practices. To this end, violations of the
29 provisions of s. 447.501 shall be remedied by the commission
30 in accordance with the following procedures and in accordance
31 with chapter 120; however, to the extent that chapter 120 is

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1 inconsistent with the provisions of this section, the
2 procedures contained in this section shall govern:

3 (6)(a) If, upon consideration of the record in the
4 case, the commission finds that an unfair labor practice has
5 been committed, it shall issue and cause to be served an order
6 requiring the appropriate party or parties to cease and desist
7 from the unfair labor practice and take such positive action,
8 including reinstatement of employees with or without back pay,
9 as will best implement the general policies expressed in this
10 part. However, no order of the commission shall require the
11 reinstatement of any individual as an employee who has been
12 suspended or discharged, or the payment of any back pay, if
13 the individual was suspended or discharged as otherwise
14 provided by law ~~for cause~~. The order may further require the
15 party or parties to make periodic reports showing the extent
16 to which it has complied with the order. If, upon
17 consideration of the record in the case, the commission finds
18 that an unfair labor practice has not been or is not being
19 committed, it shall issue an order dismissing the case.

20 Section 156. Paragraph (a) of subsection (5) of
21 section 447.507, Florida Statutes, is amended to read:

22 447.507 Violation of strike prohibition; penalties.--

23 (5) If the commission, after a hearing on notice
24 conducted according to rules promulgated by the commission,
25 determines that an employee has violated s. 447.505, it may
26 order the termination of his or her employment by the public
27 employer. Notwithstanding any other provision of law, a person
28 knowingly violating the provision of said section may,
29 subsequent to such violation, be appointed, reappointed,
30 employed, or reemployed as a public employee, but only upon
31 the following conditions:

1 (a) Such person shall be on probation for a period of
2 18 ~~6~~ months following his or her appointment, reappointment,
3 employment, or reemployment, during which period he or she
4 shall serve without permanent status and at the pleasure of
5 the agency head tenure. ~~During this period, the person may be~~
6 ~~discharged only upon a showing of just cause.~~

7 Section 157. Effective January 1, 2002, paragraph (m)
8 of subsection (2) of section 39.202, Florida Statutes, is
9 amended to read:

10 39.202 Confidentiality of reports and records in cases
11 of child abuse or neglect.--

12 (2) Access to such records, excluding the name of the
13 reporter which shall be released only as provided in
14 subsection (4), shall be granted only to the following
15 persons, officials, and agencies:

16 (m) The Office of Employee Relations within the
17 Department of Management Services ~~Public Employees Relations~~
18 ~~Commission~~ for the sole purpose of obtaining evidence for
19 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
20 to s. 109.240 ~~447.207~~. Records may be released only after
21 deletion of all information which specifically identifies
22 persons other than the employee.

23 Section 158. Effective January 1, 2002, subsection (4)
24 of section 112.044, Florida Statutes, as amended by this act,
25 is amended to read:

26 112.044 Public employers, employment agencies, labor
27 organizations; discrimination based on age prohibited;
28 exceptions; remedy.--

29 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
30 the state ~~who is within the Career Service System established~~
31 ~~by chapter 109 and~~ who is aggrieved by a violation of this act

1 ~~may appeal to the Public Employees Relations Commission under~~
2 ~~the conditions and following the procedures prescribed in part~~
3 ~~II of chapter 447. Any person other than an employee who is~~
4 ~~within the Career Service System established by chapter 109,~~
5 ~~or any person employed by the Public Employees Relations~~
6 ~~Commission, who is aggrieved by a violation of this act may~~
7 ~~bring a civil action in any court of competent jurisdiction~~
8 ~~for such legal or equitable relief as will effectuate the~~
9 ~~purposes of this act, unless voluntary binding arbitration is~~
10 ~~conducted pursuant to s. 109.240.~~

11 Section 159. Effective January 1, 2002, paragraph (b)
12 of subsection (6), subsection (14), and paragraph (a) of
13 subsection (15) of section 112.0455, Florida Statutes, are
14 amended to read:

15 112.0455 Drug-Free Workplace Act.--

16 (6) NOTICE TO EMPLOYEES.--

17 (b) Prior to testing, all employees and job applicants
18 for employment shall be given a written policy statement from
19 the employer which contains:

20 1. A general statement of the employer's policy on
21 employee drug use, which shall identify:

22 a. The types of testing an employee or job applicant
23 may be required to submit to, including reasonable suspicion
24 or other basis; and

25 b. The actions the employer may take against an
26 employee or job applicant on the basis of a positive confirmed
27 drug test result.

28 2. A statement advising the employee or job applicant
29 of the existence of this section.

30 3. A general statement concerning confidentiality.

31 4. Procedures for employees and job applicants to

1 confidentially report the use of prescription or
2 nonprescription medications both before and after being
3 tested. Additionally, employees and job applicants shall
4 receive notice of the most common medications by brand name or
5 common name, as applicable, as well as by chemical name, which
6 may alter or affect a drug test. A list of such medications
7 shall be developed by the Agency for Health Care
8 Administration.

9 5. The consequences of refusing to submit to a drug
10 test.

11 6. Names, addresses, and telephone numbers of employee
12 assistance programs and local alcohol and drug rehabilitation
13 programs.

14 7. A statement that an employee or job applicant who
15 receives a positive confirmed drug test result may contest or
16 explain the result to the employer within 5 working days after
17 written notification of the positive test result. If an
18 employee or job applicant's explanation or challenge is
19 unsatisfactory to the employer, the person may contest the
20 drug test result as provided by subsections (14) and (15).

21 8. A statement informing the employee or job applicant
22 of his or her responsibility to notify the laboratory of any
23 administrative or civil actions brought pursuant to this
24 section.

25 9. A list of all drugs for which the employer will
26 test, described by brand names or common names, as applicable,
27 as well as by chemical names.

28 10. A statement regarding any applicable collective
29 bargaining agreement or contract and the right to appeal to
30 the circuit court or request voluntary binding arbitration, if
31 applicable, as provided for by s. 109.240 ~~Public Employees~~

1 ~~Relations Commission.~~

2 11. A statement notifying employees and job applicants
3 of their right to consult the testing laboratory for technical
4 information regarding prescription and nonprescription
5 medication.

6 (14) DISCIPLINE REMEDIES.--

7 (a) An executive branch employee who is disciplined or
8 who is a job applicant for another position and is not hired
9 pursuant to this section, may file an appeal with the circuit
10 court or request voluntary binding arbitration, if applicable,
11 as provided for by s. 109.240 Public Employees Relations
12 Commission. Any appeal must be filed within 30 calendar days
13 of receipt by the employee or job applicant of notice of
14 discipline or refusal to hire. The notice shall inform the
15 employee or job applicant of the right to file an appeal, or
16 if available, the right to file a collective bargaining
17 grievance pursuant to s. 447.401. ~~Such appeals shall be~~
18 ~~resolved pursuant to the procedures established in ss.~~
19 ~~447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing
20 on the appeal shall be conducted within 30 days after ~~of~~ the
21 filing of the appeal, unless an extension is requested by the
22 employee or job applicant and granted by the court ~~commission~~
23 or a collective bargaining grievance ~~an~~ arbitrator.

24 ~~(b) The commission shall promulgate rules concerning~~
25 ~~the receipt, processing, and resolution of appeals filed~~
26 ~~pursuant to this section.~~

27 ~~(c) Appeals to the commission shall be the exclusive~~
28 ~~administrative remedy for any employee who is disciplined or~~
29 ~~any job applicant who is not hired pursuant to this section,~~
30 ~~notwithstanding the provisions of chapter 120. However,~~
31 Nothing in this subsection shall affect the right of an

1 employee or job applicant to file a collective bargaining
2 grievance pursuant to s. 447.401 provided that an employee or
3 job applicant may not file both an appeal and a grievance.

4 ~~(d) An employee or a job applicant who has been~~
5 ~~disciplined or who has not been hired pursuant to this section~~
6 ~~must exhaust either the administrative appeal process or~~
7 ~~collective bargaining grievance arbitration process.~~

8 ~~(e) Upon resolving an appeal filed pursuant to~~
9 ~~paragraph (c), and finding a violation of this section, the~~
10 ~~commission may order the following relief:~~

11 1. ~~Rescind the disciplinary action, expunge related~~
12 ~~records from the personnel file of the employee or job~~
13 ~~applicant and reinstate the employee.~~

14 2. ~~Order compliance with paragraph (10)(g).~~

15 3. ~~Award back pay and benefits.~~

16 (b)4. The court may award the prevailing employee or
17 job applicant the necessary costs of the appeal, reasonable
18 attorney's fees, and expert witness fees.

19 (15) NONDISCIPLINE REMEDIES.--

20 (a) Any person alleging a violation of the provisions
21 of this section, that is not remediable ~~by the commission or~~
22 ~~an arbitrator~~ pursuant to subsection (14), must institute a
23 civil action for injunctive relief or damages, or both, in a
24 court of competent jurisdiction within 180 days of the alleged
25 violation, or be barred from obtaining the following relief.
26 Relief is limited to:

27 1. An order restraining the continued violation of
28 this section.

29 2. An award of the costs of litigation, expert witness
30 fees, reasonable attorney's fees, and noneconomic damages
31 provided that damages shall be limited to the recovery of

1 damages directly resulting from injury or loss caused by each
2 violation of this section.

3 Section 160. Effective July 1, 2001, paragraph (a) of
4 subsection (3) and subsection (4) of section 112.31895,
5 Florida Statutes, are amended to read:

6 112.31895 Investigative procedures in response to
7 prohibited personnel actions.--

8 (3) CORRECTIVE ACTION AND TERMINATION OF
9 INVESTIGATION.--

10 (a) The Florida Commission on Human Relations, in
11 accordance with this act and for the sole purpose of this act,
12 is empowered to:

13 1. Receive and investigate complaints from employees
14 alleging retaliation by state agencies, as the term "state
15 agency" is defined in s. 216.011.

16 2. Protect employees and applicants for employment
17 with such agencies from prohibited personnel practices under
18 s. 112.3187.

19 3. Petition for stays and petition for corrective
20 actions, including, but not limited to, temporary
21 reinstatement.

22 4. Recommend disciplinary proceedings pursuant to
23 investigation and appropriate agency rules and procedures.

24 5. Coordinate with the Chief Inspector General in the
25 Executive Office of the Governor and the Florida Commission on
26 Human Relations to receive, review, and forward to appropriate
27 agencies, legislative entities, or the Department of Law
28 Enforcement disclosures of a violation of any law, rule, or
29 regulation, or disclosures of gross mismanagement,
30 malfeasance, misfeasance, nonfeasance, neglect of duty, or
31 gross waste of public funds.

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1 6. Review rules pertaining to personnel matters issued
2 or proposed by the Department of Management Services, the
3 Office of Employee Relations, the Public Employees Relations
4 Commission, and other agencies, and, if the Florida Commission
5 on Human Relations finds that any rule or proposed rule, on
6 its face or as implemented, requires the commission of a
7 prohibited personnel practice, provide a written comment to
8 the appropriate agency.

9 7. Investigate, request assistance from other
10 governmental entities, and, if appropriate, bring actions
11 concerning, allegations of retaliation by state agencies under
12 subparagraph 1.

13 8. Administer oaths, examine witnesses, take
14 statements, issue subpoenas, order the taking of depositions,
15 order responses to written interrogatories, and make
16 appropriate motions to limit discovery, pursuant to
17 investigations under subparagraph 1.

18 9. Intervene or otherwise participate, as a matter of
19 right, in any appeal or other proceeding arising under this
20 section before an ~~the Public Employees Relations Commission or~~
21 ~~any other appropriate~~ agency, except that the Florida
22 Commission on Human Relations must comply with the rules of
23 that ~~the commission or other~~ agency and may not seek
24 corrective action or intervene in an appeal or other
25 proceeding without the consent of the person protected under
26 ss. 112.3187-112.31895.

27 10. Conduct an investigation, in the absence of an
28 allegation, to determine whether reasonable grounds exist to
29 believe that a prohibited action or a pattern of prohibited
30 action has occurred, is occurring, or is to be taken.

31 (4) RIGHT TO APPEAL.--

1 ~~(a) Not more than 60 days after receipt of a notice of~~
2 ~~termination of the investigation from the Florida Commission~~
3 ~~on Human Relations, the complainant may file for judicial~~
4 ~~review of the notice of termination as provided for in s.~~
5 ~~120.68. The notice of termination of the investigation, which~~
6 ~~shall contain a statement of facts, analysis, and conclusions,~~
7 ~~shall be considered final agency action for purposes of s.~~
8 ~~120.68., with the Public Employees Relations Commission, a~~
9 ~~complaint against the hearings regarding the alleged~~
10 ~~prohibited personnel action. The Public Employees Relations~~
11 ~~Commission shall have jurisdiction over such complaints under~~
12 ~~ss. 112.3187 and 447.503(4) and (5).~~

13 ~~(b) Judicial review of any final order of the~~
14 ~~commission shall be as provided in s. 120.68.~~

15 Section 161. Effective January 1, 2002, paragraph (a)
16 of subsection (3) of section 112.31895, Florida Statutes, as
17 amended by this act, is amended to read:

18 112.31895 Investigative procedures in response to
19 prohibited personnel actions.--

20 (3) CORRECTIVE ACTION AND TERMINATION OF
21 INVESTIGATION.--

22 (a) The Florida Commission on Human Relations, in
23 accordance with this act and for the sole purpose of this act,
24 is empowered to:

25 1. Receive and investigate complaints from employees
26 alleging retaliation by state agencies, as the term "state
27 agency" is defined in s. 216.011.

28 2. Protect employees and applicants for employment
29 with such agencies from prohibited personnel practices under
30 s. 112.3187.

31 3. Petition for stays and petition for corrective

1 actions, including, but not limited to, temporary
2 reinstatement.

3 4. Recommend disciplinary proceedings pursuant to
4 investigation and appropriate agency rules and procedures.

5 5. Coordinate with the Chief Inspector General in the
6 Executive Office of the Governor and the Florida Commission on
7 Human Relations to receive, review, and forward to appropriate
8 agencies, legislative entities, or the Department of Law
9 Enforcement disclosures of a violation of any law, rule, or
10 regulation, or disclosures of gross mismanagement,
11 malfeasance, misfeasance, nonfeasance, neglect of duty, or
12 gross waste of public funds.

13 6. Review rules pertaining to personnel matters issued
14 or proposed by the Department of Management Services, the
15 Office of Employee Relations, ~~the Public Employees Relations~~
16 ~~Commission~~, and other agencies, and, if the Florida Commission
17 on Human Relations finds that any rule or proposed rule, on
18 its face or as implemented, requires the commission of a
19 prohibited personnel practice, provide a written comment to
20 the appropriate agency.

21 7. Investigate, request assistance from other
22 governmental entities, and, if appropriate, bring actions
23 concerning, allegations of retaliation by state agencies under
24 subparagraph 1.

25 8. Administer oaths, examine witnesses, take
26 statements, issue subpoenas, order the taking of depositions,
27 order responses to written interrogatories, and make
28 appropriate motions to limit discovery, pursuant to
29 investigations under subparagraph 1.

30 9. Intervene or otherwise participate, as a matter of
31 right, in any appeal or other proceeding arising under this

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1 section before an agency, except that the Florida Commission
2 on Human Relations must comply with the rules of that agency
3 and may not seek corrective action or intervene in an appeal
4 or other proceeding without the consent of the person
5 protected under ss. 112.3187-112.31895.

6 10. Conduct an investigation, in the absence of an
7 allegation, to determine whether reasonable grounds exist to
8 believe that a prohibited action or a pattern of prohibited
9 action has occurred, is occurring, or is to be taken.

10 Section 162. Effective July 1, 2001, subsection (12)
11 of section 120.80, Florida Statutes, is amended to read:

12 120.80 Exceptions and special requirements;
13 agencies.--

14 (12) OFFICE OF EMPLOYEE RELATIONS;PUBLIC EMPLOYEES
15 RELATIONS COMMISSION.--

16 (a) Notwithstanding s. 120.57(1)(a), hearings within
17 the jurisdiction of the Office of Employee Relations within
18 the Department of Management Services or the Public Employees
19 Relations Commission need not be conducted by an
20 administrative law judge assigned by the division.

21 (b) Section 120.60 does not apply to certification of
22 employee organizations pursuant to s. 447.307.

23 Section 163. Paragraph (d) of subsection (2) of
24 section 125.0108, Florida Statutes, is repealed.

25 Section 164. Paragraph (b) of subsection (9) of
26 section 376.75, Florida Statutes, is amended to read:

27 376.75 Tax on production or importation of
28 perchloroethylene.--

29 (9)

30 (b) ~~The Department of Revenue, under the applicable~~
31 ~~rules of the Public Employees Relations Commission, is~~

1 ~~authorized to employ persons and incur other expenses for~~
 2 ~~which funds are appropriated by the Legislature.~~The
 3 Department of Revenue is empowered to adopt such rules and
 4 shall prescribe and publish such forms as may be necessary to
 5 effectuate the purposes of this section.

6 Section 165. Paragraph (b) of subsection (3) of
 7 section 403.718, Florida Statutes, is amended to read:

8 403.718 Waste tire fees.--

9 (3)

10 (b) ~~The Department of Revenue, under the applicable~~
 11 ~~rules of the Career Service Commission, is authorized to~~
 12 ~~employ persons and incur other expenses for which funds are~~
 13 ~~appropriated by the Legislature.~~ The department is empowered
 14 to adopt such rules and shall prescribe and publish such forms
 15 as may be necessary to effectuate the purposes of this
 16 section. The department is authorized to establish audit
 17 procedures and to assess delinquent fees.

18 Section 166. Section 538.11, Florida Statutes, is
 19 amended to read:

20 538.11 Powers and duties of department; rules.--The
 21 same duties and privileges imposed by chapter 212 upon dealers
 22 of tangible personal property respecting the keeping of books
 23 and records and accounts and compliance with rules of the
 24 department shall apply to and be binding upon all persons who
 25 are subject to the provisions of this chapter. The department
 26 shall administer, collect, and enforce the registration
 27 authorized under this chapter pursuant to the same procedures
 28 used in the administration, collection, and enforcement of the
 29 general state sales tax imposed under chapter 212, except as
 30 provided in this section. The provisions of chapter 212
 31 regarding the keeping of records and books shall apply. ~~The~~

1 ~~department, under the applicable rules of the Career Service~~
2 ~~Commission, is authorized to employ persons and incur other~~
3 ~~expenses for which funds are appropriated by the Legislature.~~
4 The department is empowered to adopt such rules, and shall
5 prescribe and publish such forms, as may be necessary to
6 effectuate the purposes of this chapter. The Legislature
7 hereby finds that the failure to promptly implement the
8 provisions of this chapter would present an immediate threat
9 to the welfare of the state. Therefore, the executive director
10 of the department is hereby authorized to adopt emergency
11 rules pursuant to s. 120.54(4), for purposes of implementing
12 this chapter. Notwithstanding any other provision of law, such
13 emergency rules shall remain effective for 6 months from the
14 date of adoption. Other rules of the department related to and
15 in furtherance of the orderly implementation of the chapter
16 shall not be subject to a rule challenge under s. 120.56(2) or
17 a drawout proceeding under s. 120.54(3)(c)2. but, once
18 adopted, shall be subject to an invalidity challenge under s.
19 120.56(3). Such rules shall be adopted by the Governor and
20 Cabinet and shall become effective upon filing with the
21 Department of State, notwithstanding the provisions of s.
22 120.54(3)(e)6.

23 Section 167. Effective July 1, 2001, section 284.30,
24 Florida Statutes, is amended to read:

25 284.30 State Risk Management Trust Fund; coverages to
26 be provided.--A state self-insurance fund, designated as the
27 "State Risk Management Trust Fund," is created to be set up by
28 the Department of Insurance and administered with a program of
29 risk management, which fund is to provide insurance, as
30 authorized by s. 284.33, for workers' compensation, general
31 liability, fleet automotive liability, federal civil rights

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1 actions under 42 U.S.C. s. 1983 or similar federal statutes,
2 and court-awarded attorney's fees in other proceedings against
3 the state except for such awards in eminent domain or for
4 inverse condemnation or for awards by the Public Employees
5 Relations Commission or by the Office of Employee Relations.
6 A party to a suit in any court, to be entitled to have his or
7 her attorney's fees paid by the state or any of its agencies,
8 must serve a copy of the pleading claiming the fees on the
9 Department of Insurance; and thereafter the department shall
10 be entitled to participate with the agency in the defense of
11 the suit and any appeal thereof with respect to such fees.

12 Section 168. Effective July 1, 2001, section 284.31,
13 Florida Statutes, is amended to read:

14 284.31 Scope and types of coverages; separate
15 accounts.--The insurance risk management trust fund shall,
16 unless specifically excluded by the Department of Insurance,
17 cover all departments of the State of Florida and their
18 employees, agents, and volunteers and shall provide separate
19 accounts for workers' compensation, general liability, fleet
20 automotive liability, federal civil rights actions under 42
21 U.S.C. s. 1983 or similar federal statutes, and court-awarded
22 attorney's fees in other proceedings against the state except
23 for such awards in eminent domain or for inverse condemnation
24 or for awards by the Public Employees Relations Commission or
25 by the Office of Employee Relations. Unless specifically
26 excluded by the Department of Insurance, the insurance risk
27 management trust fund shall provide fleet automotive liability
28 coverage to motor vehicles titled to the state, or to any
29 department of the state, when such motor vehicles are used by
30 community transportation coordinators performing, under
31 contract to the appropriate department of the state, services

1 for the transportation disadvantaged under part I of chapter
2 427. Such fleet automotive liability coverage shall be primary
3 and shall be subject to the provisions of s. 768.28 and parts
4 II and III of chapter 284, and applicable rules adopted
5 thereunder, and the terms and conditions of the certificate of
6 coverage issued by the Department of Insurance.

7 Section 169. Effective January 1, 2002, paragraph (k)
8 of subsection (3) of section 415.107, Florida Statutes, is
9 amended to read:

10 415.107 Confidentiality of reports and records.--

11 (3) Access to all records, excluding the name of the
12 reporter which shall be released only as provided in
13 subsection (6), shall be granted only to the following
14 persons, officials, and agencies:

15 (k) The Office of Employee Relations ~~Public Employees~~
16 ~~Relations Commission~~ for the sole purpose of obtaining
17 evidence for voluntary binding arbitration conducted ~~appeals~~
18 ~~filed~~ pursuant to s. 109.240 and the Public Employees
19 Relations Commission for the purpose of obtaining evidence for
20 appeals filed pursuant to s. 447.207. Records may be released
21 only after deletion of all information that specifically
22 identifies persons other than the employee.

23 Section 170. Effective January 1, 2002, paragraph (c)
24 of subsection (3) of section 944.35, Florida Statutes, and
25 paragraph (b) of subsection (1) of section 985.4045, Florida
26 Statutes, are repealed.

27 Section 171. The Office of Employee Relations within
28 the Department of Management Services shall coordinate the
29 development and implementation of a transition plan that
30 supports the implementation of this act. The Department of
31 Labor and Employment Security, the Public Employees Relations

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1 Commission, and all other state agencies identified by the
2 office shall cooperate fully in developing and implementing
3 the plan and shall dedicate the financial and staff resources
4 that are necessary for such implementation.

5 Section 172. (1) Until July 1, 2001, the Public
6 Employees Relations Commission shall continue to exercise its
7 powers, duties, and functions pursuant to the authority
8 granted it under the Florida Statutes 2000.

9 (2) On and after July 1, 2001, the Public Employees
10 Relations Commission shall continue to exercise its powers,
11 duties, and functions pursuant to this act's amendments which
12 take effect July 1, 2001. As to those cases within the Public
13 Employees Relations Commission jurisdiction regarding the
14 suspension, dismissal, reduction in pay, demotion, layoff, or
15 transfer of a career service employee that are pending before
16 the commission on January 1, 2002, the commission shall
17 continue to exercise its authority in order to finalize those
18 existing cases under review.

19 (3) After June 30, 2002, the jurisdiction of the
20 Public Employees Relations Commission to hear appeals arising
21 out of any suspension, dismissal, reduction in pay, demotion,
22 layoff, or transfer of an employee in the Career Service
23 System shall cease to exist.

24 Section 173. There is appropriated to the Department
25 of Management Services for fiscal year 2000-2001, \$26,208 of
26 nonrecurring general revenue for the purpose of establishing
27 an administrative staff to implement the provisions of this
28 act.

29 Section 174. Effective January 1, 2002, the Public
30 Employees Relations Commission is transferred from the
31 Department of Labor and Employment Security to the Department

1 of Management Services. The Public Employees Relations
2 Commission shall have all its statutory powers, duties, and
3 functions, as otherwise provided for in this act, transferred
4 to the Department of Management Services. All the Public
5 Employees Relations Commission's records, personnel, property,
6 and unexpended balances of appropriations, allocations, or
7 other funds are transferred to the Department of Management
8 Services as of January 1, 2002, except that such portion of
9 the personnel, property, and unexpended balances of
10 appropriations, allocations, or other funds shall be
11 transferred to the Office of Employee Relations within the
12 Department of Management Services as is sufficient for that
13 office to accomplish its duties and responsibilities as
14 provided for in this act. Accordingly, the Executive Office of
15 the Governor shall process a budget amendment, or budget
16 amendments, subject to legislative notice and review under s.
17 216.177, Florida Statutes, to transfer such records,
18 personnel, property, and unexpended balances of
19 appropriations, allocations, or other funds of the Public
20 Employees Relations Commission to the Office of Employee
21 Relations as is sufficient for that office to perform its
22 statutory duties and responsibilities. The Office of Employee
23 Relations, the Public Employees Relations Commission, and the
24 Department of Management Services shall work cooperatively in
25 preparing and forwarding to the Executive Office of the
26 Governor a recommended budget amendment, or amendments, no
27 later than September 1, 2001.

28 Section 175. The Department of Management Services
29 shall adopt, amend, or repeal rules as necessary to effectuate
30 the provisions of chapter 109, Florida Statutes, as created by
31 this act, and in accordance with the authority granted to the

1 department in chapter 109, Florida Statutes.

2 Section 176. Except as otherwise provided herein, this
3 act shall take effect upon becoming a law.

4
5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 remove from the title of the bill: the entire title

9
10 and insert in lieu thereof:

11 A bill to be entitled
12 An act relating to public employees;
13 renumbering parts I, II, III, IV, and V of ch.
14 110, F.S., as parts I, II, III, IV, and V of
15 ch. 109, F.S.; amending and renumbering s.
16 110.107, F.S.; revising definitions; repealing
17 s. 110.108, F.S., relating to pilot projects
18 for agencies seeking managerial flexibility for
19 personnel programs, s. 110.109, F.S., relating
20 to personnel audits of agencies, and s.
21 110.1095, F.S., relating to training programs
22 for supervisors and managers; amending and
23 renumbering s. 110.1099, F.S.; specifying
24 duties of agency heads with respect to
25 education and training opportunities for state
26 employees; amending and renumbering s. 110.112,
27 F.S.; providing policy relating to use of human
28 resources; revising provisions relating to
29 implementation of affirmative action plans by
30 agency heads, state attorneys, and public
31 defenders; amending and renumbering s. 110.113,

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1 F.S.; requiring all state employees to
2 participate in the direct deposit program;
3 revising conditions for requesting an
4 exemption; amending and renumbering s. 110.124,
5 F.S.; providing that an employee who is
6 terminated solely because of attaining age 65
7 may request voluntary binding arbitration or
8 apply to the circuit court for relief; amending
9 and renumbering s. 110.1245, F.S.; providing
10 for a savings sharing program of awards for
11 certain state agency and judicial branch
12 employees; requiring a report; providing for
13 annual bonus payments to employees; directing
14 agency heads to develop a plan for awarding
15 bonuses and providing requirements with respect
16 thereto; authorizing department heads to incur
17 expenditures for certain awards; repealing s.
18 110.1246, F.S., which provides for lump-sum
19 bonus payments to employees; amending and
20 renumbering s. 110.131, F.S.; revising the time
21 limitation on employment of
22 other-personal-services temporary employees;
23 requiring approval of the Governor's Office of
24 Policy and Budget for extensions of such
25 limitations; revising exemptions from such
26 limitation; amending and renumbering s.
27 110.203, F.S.; revising definitions; revising
28 the definition of "layoff" to include
29 outsourcing or privatization; creating s.
30 109.2035, F.S.; directing the Department of
31 Management Services, in consultation with

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1 specified entities, to develop a civil service
2 classification and compensation program and
3 providing requirements with respect thereto;
4 directing the department to establish
5 guidelines regarding certain types of pay and
6 providing duties of agencies with respect
7 thereto; amending and renumbering s. 110.205,
8 F.S.; providing additional positions that are
9 exempt from the Career Service System and
10 included in the Selected Exempt Service;
11 providing that when an employee transfers from
12 the Career Service System to the Selected
13 Exempt Service, unused annual and sick leave,
14 and, under certain conditions, unused
15 compensatory leave, shall carry forward;
16 repealing ss. 109.207 and 109.209, F.S., as
17 renumbered by the act, relating to
18 establishment and maintenance of a uniform
19 classification plan and an equitable pay plan
20 and related agency duties; amending and
21 renumbering ss. 110.211 and 110.213, F.S.;
22 revising requirements with respect to
23 recruitment and selection; requiring completion
24 of a probationary period before attainment of
25 permanent status for new employees; amending
26 and renumbering s. 110.219, F.S.; providing
27 requirements regarding leave benefits for
28 Senior Management Service employees; providing
29 for an annual payout of unused annual leave for
30 career service employees; amending and
31 renumbering s. 110.224, F.S.; revising

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1 requirements relating to a review and
2 performance planning system and designating
3 such system a public employee performance
4 evaluation system; revising requirements
5 relating to certain information furnished to
6 employees and employee evaluation; amending and
7 renumbering s. 110.227, F.S.; providing that a
8 career service employee other than a law
9 enforcement or correctional officer or a
10 firefighter may be suspended or dismissed for
11 reasonable cause; providing that reasonable
12 cause shall be determined by the agency head
13 and specifying actions included thereunder;
14 specifying actions that constitute an abuse of
15 the agency head's sound discretion; revising
16 certain responsibilities of agency heads;
17 providing that, except with regard to law
18 enforcement or correctional officers or
19 firefighters, rules regarding layoff shall not
20 include "bumping"; deleting a requirement that
21 a layoff be conducted within an identified
22 competitive area with regard to employees other
23 than law enforcement or correctional officers
24 or firefighters; providing for appeal of
25 reductions in pay, transfers, layoffs, or
26 demotions to, and hearings regarding suspension
27 or dismissal before, the circuit court, or for
28 voluntary binding arbitration with respect
29 thereto; providing that, for any alleged
30 adverse agency action against an employee other
31 than a law enforcement or correctional officer

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1 or a firefighter occurring after a specified
2 date, the employee bears the burden of proof to
3 establish that the agency head abused his or
4 her discretion; creating s. 109.237, F.S.;
5 creating an Office of Employee Relations within
6 the Department of Management Services;
7 providing for an executive director, a general
8 counsel, and an administrative assistant, and
9 their qualifications and duties; providing for
10 additional personnel; providing duties of the
11 department; providing powers and duties of the
12 office; creating s. 109.240, F.S.; providing
13 that any permanent career service employee may
14 request voluntary binding arbitration
15 administered by the Office of Employee
16 Relations upon notice of an adverse agency
17 action; providing definitions; providing
18 requirements for such requests; providing for
19 notice to the agency; specifying the employee's
20 burden of proof; providing for arbitrators and
21 their qualifications and authority; providing
22 for employee panels and their qualifications
23 and authority; providing duties of the office;
24 providing for records; providing procedural
25 requirements for arbitration proceedings;
26 providing for rules; providing for application
27 to the circuit court for an order confirming,
28 vacating, or modifying the arbitration
29 decision; providing for immunity; amending and
30 renumbering s. 110.403, F.S.; increasing the
31 limit on the number of Senior Management

1 Service positions; amending and renumbering s.
2 110.602, F.S.; removing the limit on the number
3 of Selected Exempt Service positions; amending
4 and renumbering ss. 110.1091, 110.1127,
5 110.117, 110.1227, 110.123, 110.12312,
6 110.1232, 110.129, 110.152, 110.1521, 110.1522,
7 110.1523, 110.161, 110.171, 110.191, 110.233,
8 110.235, 110.401, 110.402, 110.406, 110.502,
9 110.601, 110.605, and 110.606, F.S.; clarifying
10 and conforming language and correcting cross
11 references; amending ss. 20.171, 20.18, 20.21,
12 20.23, 20.255, 20.315, 24.105, 24.122, 68.087,
13 104.31, 106.082, 106.24, 112.044, 112.0805,
14 112.313, 112.3189, 112.363, 121.021, 121.0515,
15 121.055, 121.35, 215.94, 216.011, 216.251,
16 231.381, 235.217, 240.209, 240.2111, 240.507,
17 241.002, 242.331, 260.0125, 281.02, 287.175,
18 288.708, 295.07, 296.04, 296.34, 311.07,
19 339.175, 343.74, 381.85, 393.0657, 400.19,
20 400.953, 402.3057, 402.55, 402.731, 409.1757,
21 440.102, 440.4416, 443.171, 456.048, 471.038,
22 509.036, 570.073, 570.074, 624.307, 627.0623,
23 627.6488, 627.649, 627.6498, 627.6617, 655.019,
24 943.0585, 943.059, 943.22, 944.35, 945.043,
25 957.03, 985.04, 985.05, and 985.4045, F.S.;
26 conforming language and correcting cross
27 references; amending s. 216.262, F.S.;
28 authorizing efficiency awards to state agencies
29 based on changes to authorized positions and
30 providing requirements with respect thereto;
31 amending s. 447.201, F.S., relating to the

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1 statement of public policy regarding public
2 employees; amending s. 447.205, F.S., relating
3 to creation of the Public Employees Relations
4 Commission; repealing s. 447.207(8), (9), (10),
5 and (11), F.S., which provide for appeals to
6 the commission with regard to adverse agency
7 actions against career service employees;
8 amending s. 447.208, F.S.; providing the
9 employee's burden of proof for alleged adverse
10 agency actions occurring on or after July 1,
11 2001; repealing s. 447.208, F.S., which
12 provides procedures for appeals to the
13 commission regarding certain adverse agency
14 actions, and s. 447.2085, F.S., which provides
15 for rules with respect thereto, effective
16 January 1, 2002; amending s. 447.307, F.S.;
17 providing requirements with respect to
18 bargaining units for certain law enforcement
19 agencies; amending s. 447.503, F.S.; conforming
20 language; amending s. 447.507, F.S.; revising
21 conditions under which a person who violates
22 the strike prohibition may be employed or
23 appointed; amending s. 39.202, F.S.; providing
24 for access to certain records by the office;
25 amending s. 112.044, F.S., which prohibits age
26 discrimination against public employees;
27 providing for court action by an aggrieved
28 employee if voluntary binding arbitration is
29 not conducted; amending s. 112.0455, F.S., the
30 Drug-Free Workplace Act; providing for appeals
31 with respect to discipline or not being hired

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1 under said act to the circuit court rather than
2 the commission, or for voluntary binding
3 arbitration; amending s. 112.31895, F.S.;
4 providing for judicial review of notice of
5 termination of an investigation in connection
6 with the Whistle-blower's Act rather than
7 commission review; conforming language;
8 amending s. 120.80, F.S.; conforming language;
9 repealing s. 125.0108(2)(d), F.S., and amending
10 ss. 376.75, 403.718, and 538.11, F.S.; removing
11 provisions which authorize certain actions by
12 the Department of Revenue pursuant to rules of
13 the commission or the Career Service
14 Commission; amending ss. 284.30 and 284.31,
15 F.S.; conforming language; amending s. 415.107,
16 F.S.; providing for access to certain records
17 by the office; repealing ss. 944.35(3)(c) and
18 985.4045(1)(b), F.S., which provide that
19 violations by Department of Corrections
20 employees of prohibitions against malicious
21 battery and sexual misconduct, and violations
22 by Department of Juvenile Justice employees of
23 the prohibition against sexual misconduct, as
24 determined by the commission, constitute cause
25 for dismissal; directing the office to
26 coordinate a transition plan; specifying
27 transitional powers and duties of the
28 commission and providing that it shall cease to
29 hear certain appeals after June 30, 2002;
30 providing an appropriation; transferring the
31 commission to the Department of Management

229-192AX-05

Bill No. HB 369

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Services and certain of its property and
personnel to the office; providing for budget
amendments; providing for rules; providing
effective dates.