

By Representative Diaz-Balart

1 A bill to be entitled
2 An act relating to public employees;
3 renumbering parts I, II, III, IV, and V of ch.
4 110, F.S., as parts I, II, III, IV, and V of
5 ch. 109 F.S.; repealing s. 110.108, F.S.,
6 relating to pilot projects for agencies seeking
7 managerial flexibility for personnel programs,
8 s. 110.1082, F.S., relating to use of telephone
9 voice mail and menu options systems, s.
10 110.109, F.S., relating to personnel audits of
11 agencies, and s. 110.1095, F.S., relating to
12 training programs for supervisors and managers;
13 amending and renumbering s. 110.1099, F.S.;
14 specifying duties of agency heads with respect
15 to education and training opportunities for
16 state employees; amending and renumbering s.
17 110.112, F.S.; removing requirements relating
18 to affirmative action plans, related training,
19 and reports and reviews relating thereto;
20 providing policy relating to use of human
21 resources; providing for implementation of
22 methodologies to fully utilize available human
23 resources; providing for equal employment
24 opportunity officers and their
25 responsibilities; amending and renumbering s.
26 110.113, F.S.; requiring all state employees to
27 participate in the direct deposit program;
28 revising conditions for requesting an
29 exemption; amending and renumbering s. 110.114,
30 F.S.; providing for deduction of the cost of
31 making any wage deduction requested by an

1 employee; amending and renumbering s. 110.124,
2 F.S.; providing that an employee who is
3 terminated solely because of attaining age 65
4 may apply to the circuit court for relief if
5 voluntary binding arbitration is not conducted;
6 amending and renumbering s. 110.1245, F.S.;
7 eliminating the meritorious service awards
8 program and providing for a gain sharing
9 program, with awards set by the Legislative
10 Budgeting Commission; deleting certain
11 limitations; amending and renumbering s.
12 110.131, F.S.; revising the time limitation on
13 employment of other-personal-services temporary
14 employees; requiring approval of the Governor's
15 Office of Policy and Budget for extension of
16 such limitation; revising exemptions from such
17 limitation; creating s. 109.202, F.S.;
18 providing a declaration of policy; amending and
19 renumbering s. 110.203, F.S.; conforming
20 definitions; revising the definition of
21 "layoff" to include outsourcing or
22 privatization; creating s. 109.2035, F.S.;
23 directing the Department of Management
24 Services, in consultation with specified
25 entities, to develop a model civil service
26 classification and compensation program and
27 providing requirements with respect thereto;
28 amending and renumbering ss. 110.211 and
29 110.213, F.S.; directing the department to
30 develop uniform recruitment and selection rules
31 to be used by employing agencies; amending and

1 renumbering s. 110.224, F.S.; revising
2 requirements relating to a review and
3 performance planning system and designating
4 such system a review and performance evaluation
5 system; revising requirements relating to
6 certain information furnished to employees and
7 employee evaluation; amending and renumbering
8 s. 110.227, F.S.; providing that a career
9 service employee may be suspended or dismissed
10 for reasonable cause; providing that reasonable
11 cause shall be determined by the agency head
12 and specifying actions included thereunder;
13 revising certain responsibilities of agency
14 heads; providing that rules regarding layoff
15 shall not include "bumping"; deleting a
16 requirement that a layoff be conducted within
17 an identified competitive area; providing that,
18 for any alleged adverse agency action against
19 an employee occurring after a specified date,
20 the employee bears the burden of proof to
21 establish that the agency head abused his or
22 her discretion; providing that, effective
23 January 1, 2002, career service employees shall
24 serve at the pleasure of the agency head;
25 providing for appeal of reductions in pay,
26 transfers, layoffs, or demotions to, and
27 hearings regarding suspension or dismissal
28 before, the circuit court, or for voluntary
29 binding arbitration with respect thereto;
30 creating s. 109.240, F.S.; providing that any
31 permanent career service employee may request

1 voluntary binding arbitration administered by
2 the Division of Human Resource Management upon
3 notice of an adverse agency action; providing
4 definitions; providing requirements for such
5 requests; providing for notice to the agency;
6 specifying the employee's burden of proof;
7 providing for arbitrators and their
8 qualifications and authority; providing for
9 employee panels and their qualifications and
10 authority; providing duties of the division;
11 providing for records; providing procedural
12 requirements for arbitration proceedings;
13 providing for rules; providing for application
14 to the circuit court for an order enforcing,
15 vacating, or modifying the arbitration
16 decision; providing for immunity; amending and
17 renumbering s. 110.403, F.S.; increasing the
18 limit on the number of Senior Management
19 Service positions; amending and renumbering s.
20 110.602, F.S.; removing the limit on the number
21 of Selected Exempt Service positions; amending
22 and renumbering s. 110.605, F.S.; deleting
23 provisions relating to development of a program
24 of affirmative and positive action for the
25 Selected Exempt Service by the department;
26 amending and renumbering ss. 110.1091,
27 110.1127, 110.117, 110.1227, 110.123,
28 110.12312, 110.1232, 110.129, 110.152,
29 110.1521, 110.1522, 110.1523, 110.161, 110.171,
30 110.191, 110.205, 110.219, 110.233, 110.235,
31 110.401, 110.402, 110.406, 110.502, 110.601,

1 and 110.606, F.S.; clarifying and conforming
2 language and correcting cross references;
3 amending ss. 20.171, 20.18, 20.21, 20.23,
4 20.255, 20.315, 24.105, 24.122, 68.087, 104.31,
5 106.082, 106.24, 112.044, 112.0805, 112.313,
6 112.3189, 112.363, 121.021, 121.0515, 121.055,
7 121.35, 215.94, 216.011, 216.251, 231.381,
8 235.217, 240.209, 240.2111, 240.507, 241.002,
9 242.331, 260.0125, 281.02, 287.175, 288.708,
10 295.07, 296.04, 296.34, 311.07, 339.175,
11 343.74, 381.85, 393.0657, 400.19, 400.953,
12 402.3057, 402.55, 402.731, 409.1757, 440.102,
13 440.4416, 443.171, 447.207, 456.048, 471.038,
14 509.036, 570.073, 570.074, 624.307, 627.0623,
15 627.6488, 627.649, 627.6498, 627.6617, 655.019,
16 943.0585, 943.059, 943.22, 944.35, 945.043,
17 957.03, 985.04, 985.05, and 985.4045, F.S.;
18 conforming language and correcting cross
19 references; amending s. 20.22, F.S.; creating
20 the Division of Human Resource Management in
21 the Department of Management Services; amending
22 s. 447.201, F.S.; revising the statement of
23 public policy regarding public employees;
24 amending s. 447.203, F.S.; revising definitions
25 for purposes of part II of ch. 447, F.S.,
26 relating to public employees; repealing s.
27 447.203(1)(b) and (3)(h), F.S., which define
28 the Public Employees Relations Commission and
29 exempt its employees from the definition of
30 "public employee," and s. 447.205, F.S., which
31 creates the commission, effective June 30,

1 2002; amending s. 447.207, F.S.; transferring
2 general powers of the commission and powers
3 relating to collective bargaining to the
4 division; removing certain powers relating to
5 petitions for a declaratory statement;
6 directing the division to provide for voluntary
7 binding arbitration with regard to certain
8 adverse actions and discrimination in lieu of
9 appeals to the commission; providing that the
10 commission shall retain certain authority until
11 June 30, 2002; amending s. 447.208, F.S.;
12 providing the employee's burden of proof for
13 alleged adverse agency actions occurring on or
14 after July 1, 2001; deleting certain commission
15 powers regarding reduction of penalties;
16 repealing s. 447.208, F.S., which provides
17 procedures for appeals to the commission
18 regarding certain adverse agency actions, and
19 s. 447.2085, F.S., which provides for rules
20 with respect thereto, effective January 1,
21 2002; amending s. 447.301, F.S.; conforming
22 language; amending ss. 447.305, 447.307,
23 447.308, and 447.309, F.S.; transferring powers
24 and duties relating to registration and
25 certification of employee organizations and
26 adoption of procedures relating to collective
27 bargaining agreements from the commission to
28 the division; increasing the registration fee;
29 amending s. 447.403, F.S.; revising
30 requirements and procedures relating to
31 resolution of impasses when the Legislature is

1 the appropriate legislative body; transferring
2 certain duties relating thereto to the division
3 and the appropriate legislative body; amending
4 s. 447.4095, F.S.; conforming language;
5 amending s. 447.501, F.S.; providing for filing
6 of unfair labor practice complaints with a
7 court of competent jurisdiction; providing for
8 costs and attorney's fees; repealing s.
9 447.503, F.S., which provides for settling of
10 unfair labor practices disputes by the
11 commission; amending s. 447.5035, F.S.;
12 providing for enforcement of division orders;
13 repealing s. 447.504, F.S., which provides for
14 judicial review of final orders of the
15 commission; amending s. 447.507, F.S.;
16 transferring powers and duties relating to
17 enforcement of the strike prohibition from the
18 commission to the division; removing provisions
19 relating to termination by the commission of
20 the employment of an employee who violates the
21 strike prohibition; amending s. 447.607, F.S.;
22 conforming language; amending s. 20.171, F.S.;
23 conforming language; amending s. 39.202, F.S.;
24 providing for access to certain records by the
25 division; amending s. 112.044, F.S., which
26 prohibits age discrimination against public
27 employees; providing for court action by an
28 aggrieved employee if voluntary binding
29 arbitration is not conducted; amending s.
30 112.0455, F.S., the Drug-Free Workplace Act;
31 providing for appeals with respect to

1 discipline or not being hired under said act to
2 the circuit court rather than the commission;
3 amending s. 112.215, F.S.; providing for
4 appointment of members of the Deferred
5 Compensation Advisory Council by the department
6 rather than the commission; amending s.
7 112.31895, F.S.; providing for judicial review
8 of notice of termination of an investigation in
9 connection with the Whistle-blower's Act rather
10 than commission review; amending s. 120.80,
11 F.S.; conforming language; repealing s.
12 125.0108(2)(d), F.S., and amending ss. 376.75,
13 403.718, and 538.11, F.S.; removing provisions
14 which authorize certain actions by the
15 Department of Revenue pursuant to rules of the
16 commission or the Career Service Commission;
17 amending ss. 284.30 and 284.31, F.S.;
18 conforming language; amending ss. 295.11 and
19 295.14, F.S.; providing that the circuit court,
20 rather than the commission, has jurisdiction to
21 enforce provisions relating to employment
22 preference for veterans if voluntary binding
23 arbitration is not conducted; amending s.
24 415.107, F.S.; providing for access to certain
25 records by the division; amending s. 440.102,
26 F.S.; conforming language; repealing ss.
27 944.35(3)(c) and 985.4045(1)(b), F.S., which
28 provide that violations by Department of
29 Corrections employees of prohibitions against
30 malicious battery and sexual misconduct, and
31 violations by Department of Juvenile Justice

1 employees of the prohibition against sexual
2 misconduct, as determined by the commission,
3 constitute cause for dismissal; directing the
4 Department of Management Services to coordinate
5 a transition plan; specifying transitional
6 powers and duties of the commission and
7 providing that it shall cease to exist June 30,
8 2002; providing an appropriation; providing for
9 budget amendments to effectuate the act;
10 providing for rules; providing effective dates.

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

13
14 Section 1. Sections 110.105 and 110.107, Florida
15 Statutes, are renumbered as sections 109.105 and 109.107,
16 Florida Statutes, respectively.

17 Section 2. Sections 110.108, 110.1082, and 110.109,
18 Florida Statutes, are repealed.

19 Section 3. Section 110.1091, Florida Statutes, is
20 renumbered as section 109.1091, Florida Statutes, and amended
21 to read:

22 109.1091 ~~110.1091~~ Program for assisting state
23 employees; confidentiality.--~~An~~ Each employing state agency
24 may provide a program to assist any of its state employees
25 ~~employee~~ who have ~~has~~ a behavioral or medical disorder,
26 substance abuse problem, or emotional difficulty which affects
27 their ~~the employee's~~ job performance, through referral for
28 counseling, therapy, or other professional treatment. Each
29 employing state agency may designate community diagnostic and
30 referral resources as necessary to implement the provisions of
31 this section. Any communication between a state employee and

1 personnel or service providers of a state employee assistance
2 program relative to the employee's participation in the
3 program shall be a confidential communication. Any routine
4 monitoring of telephone calls by the state agency does not
5 violate this provision. All records relative to that
6 participation shall be confidential and exempt from the
7 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
8 Constitution. This section is subject to the Open Government
9 Sunset Review Act of 1995 in accordance with s. 119.15, and
10 shall stand repealed on October 2, 2003, unless reviewed and
11 saved from repeal through reenactment by the Legislature.

12 Section 4. Section 110.1095, Florida Statutes, is
13 repealed.

14 Section 5. Section 110.1099, Florida Statutes, is
15 renumbered as section 109.1099, Florida Statutes, and amended
16 to read:

17 109.1099 ~~110.1099~~ Education and training opportunities
18 for state employees.--

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

21 Recognizing that the application of productivity-enhancing
22 technology and practice demand continuous educational and
23 training opportunities, a state employee ~~employees~~ may be
24 authorized to receive a fundable tuition waiver ~~waivers~~ on a
25 space-available basis or a voucher ~~vouchers~~ to attend
26 work-related courses at public universities. Student credit
27 hours generated by state employee fee waivers shall be
28 fundable credit hours.

29 (2) The department, in conjunction with the agencies,
30 shall request that public universities ~~such institutions~~
31 provide evening and weekend programs for state employees. When

1 evening and weekend training and educational programs are not
2 available, an employee ~~employees~~ may be authorized to take
3 paid time off during his or her ~~their~~ regular working hours
4 for training and career development, as provided in s.
5 109.105(1)~~110.105(1)~~, if such training benefits the employer
6 as determined by that employee's agency head.

7 (3) An employee ~~Employees~~ who exhibits ~~exhibit~~
8 superior aptitude and performance may be authorized by that
9 employee's agency head to take a paid educational leave ~~leaves~~
10 of absence for up to 1 academic year at a time, for specific
11 approved work-related education and training.

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

17 ~~(4)~~~~(6)~~ As a precondition to approving an employee's
18 training request, an agency or the judicial branch may require
19 an employee to enter into an agreement that requires the
20 employee to reimburse the agency or judicial branch for the
21 registration fee or similar expense for any training or
22 training series when the cost of the fee or similar expense
23 exceeds \$1,000 if the employee voluntarily terminates
24 employment or is discharged ~~for cause~~ from the agency or
25 judicial branch within a specified period of time not to
26 exceed ~~exceeding~~ 4 years after the conclusion of the training.
27 This subsection does not apply to any training program that an
28 agency or the judicial branch requires an ~~the~~ employee to
29 attend. An agency or the judicial branch may pay the
30 outstanding balance then due and owing on behalf of a state
31

1 employee under this subsection in connection with recruitment
2 and hiring of such state employee.

3 (5) The Department of Management Services, in
4 consultation with the agencies and, to the extent applicable,
5 Florida's public universities ~~postsecondary educational~~
6 ~~institutions~~, shall adopt rules to implement and administer
7 this section.

8 Section 6. Section 110.112, Florida Statutes, is
9 renumbered as section 109.112, Florida Statutes, and amended
10 to read:

11 109.112 ~~110.112~~ Affirmative action; equal employment
12 opportunity.--

13 (1) It is ~~shall be~~ the policy of this ~~the~~ state to
14 fully utilize the rich diversity of Florida's human resources
15 and to assist in providing the assurance of equal employment
16 opportunity through education and other programs of
17 affirmative and positive action that will allow the citizens
18 of Florida to benefit from the full utilization of all
19 available human resources ~~women and minorities.~~

20 (2)(a) The head of each executive agency and each
21 state attorney and public defender shall develop and implement
22 methodologies designed to fully utilize available human
23 resources ~~an affirmative action plan in accordance with rules~~
24 ~~adopted by the department and approved by a majority vote of~~
25 ~~the Administration Commission before their adoption.~~

26 (b) ~~Each executive agency shall establish annual goals~~
27 ~~for ensuring full utilization of groups underrepresented in~~
28 ~~its workforce as compared to the relevant labor market, as~~
29 ~~defined by the agency. Each executive agency shall design its~~
30 ~~affirmative action plan to meet its established goals.~~

31

1 **(b)**~~(c)~~ An equal ~~affirmative action~~-equal employment
2 opportunity officer shall be appointed by the head of each
3 executive agency and each state attorney and public defender.
4 The equal ~~affirmative action~~-equal employment opportunity
5 officer's responsibilities shall ~~must~~ include ~~determining~~
6 ~~annual goals, monitoring agency compliance, and providing~~
7 ~~consultation~~ with ~~to~~ managers regarding strategies that may be
8 successful in acquiring and utilizing a diverse workforce
9 ~~progress, deficiencies, and appropriate corrective action~~.

10 ~~(d)~~ The department shall report information in its
11 annual workforce report relating to the implementation,
12 continuance, updating, and results of each executive agency's
13 affirmative action plan for the previous fiscal year.

14 ~~(e)~~ The department shall provide to all supervisory
15 personnel of the executive agencies training in the principles
16 of equal employment opportunity and affirmative action, the
17 development and implementation of affirmative action plans,
18 and the establishment of annual affirmative action goals. The
19 department may contract for training services, and each
20 participating agency shall reimburse the department for costs
21 incurred through such contract. After the department approves
22 the contents of the training program for the agencies, the
23 department may delegate this training to the executive
24 agencies.

25 ~~(3)~~ Each state attorney and public defender shall:

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

27 ~~(b)~~ Establish annual goals for ensuring full
28 utilization of groups underrepresented in its workforce as
29 compared to the relevant labor market in this state. The state
30 attorneys' and public defenders' affirmative action plans must
31 be designed to meet the established goals.

1 ~~(c) Appoint an affirmative action-equal employment~~
2 ~~opportunity officer.~~

3 ~~(d) Report annually to the Justice Administrative~~
4 ~~Commission on the implementation, continuance, updating, and~~
5 ~~results of his or her affirmative action program for the~~
6 ~~previous fiscal year.~~

7 (3)~~(4)~~ The state, its agencies and officers shall
8 ensure freedom from discrimination in employment as provided
9 by the Florida Civil Rights Act of 1992, by s. 112.044, and by
10 this chapter.

11 (4)~~(5)~~ Any individual claiming to be aggrieved by an
12 unlawful employment practice may file a complaint with the
13 Florida Commission on Human Relations as provided by s.
14 760.11(1)~~760.10(10)~~.

15 ~~(6) The department shall review and monitor executive~~
16 ~~agency actions in carrying out the rules adopted by the~~
17 ~~department pursuant to this section.~~

18 Section 7. Section 110.1127, Florida Statutes, is
19 renumbered as section 109.1127, Florida Statutes, and
20 subsection (1) of said section is amended to read:

21 109.1127 ~~110.1127~~ Employee security checks.--

22 (1) Each employing agency shall designate those
23 employee ~~such of its positions of state employment~~ which,
24 because of the special trust or responsibility or sensitive
25 location of those ~~such~~ positions, require that persons
26 occupying those ~~such~~ positions be subject to a security
27 background check, including fingerprinting, as a condition of
28 employment.

29 Section 8. Section 110.1128, Florida Statutes, is
30 renumbered as section 109.1128, Florida Statutes.

31

1 Section 9. Section 110.113, Florida Statutes, is
2 renumbered as section 109.113, Florida Statutes, and,
3 effective January 1, 2002, subsection (2) of said section is
4 amended to read:

5 109.113 ~~110.113~~ Pay periods for state officers and
6 employees; salary payments by direct deposit.--

7 (2) As a condition of employment, a person appointed
8 to a position in state government ~~on or after July 1, 1996,~~ is
9 required to participate in the direct deposit program pursuant
10 to s. 17.076. ~~This subsection does not apply to persons who
11 are in the employment of the state on July 1, 1996, and
12 subsequently receive promotion appointments, transfers, or
13 other changes in positions within the same personnel system
14 after July 1, 1996.~~ An employee may request an exemption from
15 the provisions of this subsection when such employee can
16 demonstrate a hardship ~~or when such employee is in an
17 other personal services position.~~

18 Section 10. Section 110.114, Florida Statutes, is
19 renumbered as section 109.114, Florida Statutes, and,
20 effective January 1, 2002, subsection (1) of said section is
21 amended to read:

22 109.114 ~~110.114~~ Employee wage deductions.--

23 (1) The state or any of its departments, bureaus,
24 commissions, and officers are authorized and permitted, with
25 the concurrence of the Department of Banking and Finance, to
26 make deductions from the salary or wage of any employee or
27 employees in such amount as shall be authorized and requested
28 by such employee or employees and for such purpose as shall be
29 authorized and requested by such employee or employees and
30 shall pay such sums so deducted as directed by such employee
31 or employees. The cost of making any requested deduction and

1 paying such sums shall also be deducted from the employee's
2 compensation at the same time as the requested deduction.The
3 concurrence of the Department of Banking and Finance shall not
4 be required for the deduction of a certified bargaining
5 agent's membership dues deductions pursuant to s. 447.303 or
6 any deductions authorized by a collective bargaining
7 agreement.

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

12 Section 12. Section 110.117, Florida Statutes, is
13 renumbered as section 109.117, Florida Statutes, and
14 subsection (3) of said section is amended to read:

15 109.117 ~~110.117~~ Paid holidays.--

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

26 Section 13. Sections 110.118, 110.119, 110.120,
27 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes,
28 are renumbered as sections 109.118, 109.119, 109.120, 109.121,
29 109.122, 109.1221, and 109.1225, Florida Statutes,
30 respectively.

31

1 Section 14. Section 110.1227, Florida Statutes, is
2 renumbered as section 109.1227, Florida Statutes, and
3 paragraph (c) of subsection (1) of said section is amended to
4 read:

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

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

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

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

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

17 (3) STATE GROUP INSURANCE PROGRAM.--

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

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

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

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

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

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

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

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

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

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

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

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

- 1 b. Does not currently meet the 25 percent
2 non-Medicare/non-Medicaid enrollment composition requirement
3 established by the Department of Health excluding participants
4 enrolled in the state group insurance program;
- 5 c. Meets the minimum benefit package and copayments
6 and deductibles contained in sub-subparagraphs 2.a. and b.;
- 7 d. Is willing to participate in the state group
8 insurance program at a cost of premiums that is not greater
9 than 95 percent of the cost of HMO premiums accepted by the
10 department in each service area; and
- 11 e. Meets the minimum surplus requirements of s.
12 641.225.

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

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

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

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

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

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

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

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

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 16. 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.

1 Section 17. Section 110.12315, Florida Statutes, is
2 renumbered as section 109.12315, Florida Statutes.

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

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

24 Section 21. Section 110.1245, Florida Statutes, is
25 renumbered as section 109.1245, Florida Statutes, and amended
26 to read:

27 109.1245 ~~110.1245~~ Gain sharing ~~Meritorious service~~
28 ~~awards~~ program.--

29 (1) The Department of Management Services shall set
30 policy, develop procedures, and promote a program of gain

31

1 sharing for ~~meritorious service awards, incentives, and~~
2 ~~recognition to~~ employees who+

3 ~~(a)~~ propose procedures or ideas which are adopted and
4 which will result in increasing productivity, in eliminating
5 or reducing state expenditures or improving operations, or in
6 generating additional revenues, provided such proposals are
7 placed in effect and can be implemented under current
8 statutory authority. ~~† or~~

9 ~~(b)~~ ~~By their superior accomplishments, make~~
10 ~~exceptional contributions to the efficiency, economy, or other~~
11 ~~improvement in the operations of the state government.~~

12

13 Every state agency, unless otherwise provided by law, shall
14 participate in the program. The Chief Justice shall have the
15 authority to establish a gain sharing ~~meritorious service~~
16 ~~awards~~ program for employees of the judicial branch within the
17 parameters established in this section. ~~The component of the~~
18 ~~program specified in paragraph (a) shall apply to all~~
19 ~~employees within the Career Service System, the Selected~~
20 ~~Exempt Service System, and comparable employees within the~~
21 ~~judicial branch. The Legislative Budgeting Commission shall~~
22 ~~set awards for the gain sharing program.~~ ~~The component of the~~
23 ~~program specified in paragraph (b) shall apply to all~~
24 ~~employees of the state. No award granted under the component~~
25 ~~of the program described in paragraph (a) shall exceed 10~~
26 ~~percent of the first year's actual savings or actual revenue~~
27 ~~increase, up to \$25,000, plus applicable taxes, unless a~~
28 ~~larger award is made by the Legislature, and shall be paid~~
29 ~~from the appropriation available to the judicial branch or~~
30 ~~state agency affected by the award or from any specific~~
31 ~~appropriation therefor. No award granted under the component~~

1 ~~of the program described in paragraph (b) shall exceed \$1,000~~
2 ~~plus applicable taxes per individual employee. The judicial~~
3 ~~branch or an agency may award savings bonds or other items in~~
4 ~~lieu of cash awards, provided that the cost of such item does~~
5 ~~not exceed the limits specified in this subsection. In~~
6 ~~addition,~~The judicial branch or a state agency may award
7 certificates, pins, plaques, letters of commendation, and
8 other tokens of recognition under the gain sharing program of
9 ~~meritorious service to an employee eligible for recognition~~
10 ~~under either component of the program, provided that the award~~
11 ~~may not cost in excess of \$100 each plus applicable taxes.~~

12 (2) The department and the judicial branch shall
13 submit annually to the President of the Senate and the Speaker
14 of the House of Representatives information that outlines each
15 agency's level of participation in the ~~meritorious service~~
16 ~~awards~~ program. The information must include, but is not
17 limited to:

18 (a) The number of proposals made.

19 (b) The number of awards made to employees for adopted
20 proposals.

21 (c) The actual cost savings realized as a result of
22 implementing employee proposals.

23 (d) Total expenditures incurred by the Legislative
24 Budgeting Commission ~~agency~~ for providing awards to employees
25 for adopted proposals.

26 (e) The number of employees recognized for superior
27 accomplishments.

28 (f) The number of employees recognized for
29 satisfactory service to the state.

30 (3) Each department head is authorized to incur
31 expenditures to award suitable framed certificates, pins, and

1 other tokens of recognition to retiring state employees whose
2 service with the state has been satisfactory, in appreciation
3 and recognition of such service. Such awards may not cost in
4 excess of \$100 each plus applicable taxes.

5 (4) Each department head is authorized to incur
6 expenditures to award suitable framed certificates, pins, or
7 other tokens of recognition to state employees who have
8 achieved increments of 5 years of satisfactory service in the
9 agency or to the state, in appreciation and recognition of
10 such service. Such awards may not cost in excess of \$50 each
11 plus applicable taxes.

12 (5) Each department head is authorized to incur
13 expenditures not to exceed \$100 each plus applicable taxes for
14 suitable framed certificates, plaques, or other tokens of
15 recognition to any appointed member of a state board or
16 commission whose service to the state has been satisfactory,
17 in appreciation and recognition of such service upon the
18 expiration of such board or commission member's final term in
19 such position.

20 Section 22. Sections 110.1246, 110.125, 110.126, and
21 110.127, Florida Statutes, are renumbered as sections
22 109.1246, 109.125, 109.126, and 109.127, Florida Statutes,
23 respectively.

24 Section 23. Section 110.129, Florida Statutes, is
25 renumbered as section 109.129, Florida Statutes, and amended
26 to read:

27 109.129 ~~110.129~~ Services to political subdivisions.--

28 (1) Upon request, the department may enter into a
29 formal agreement ~~agreements~~ with any municipality or political
30 subdivision of the state to furnish technical assistance to
31 improve the system or methods of personnel administration of

1 ~~that such~~ municipality or political subdivision. The
2 department shall provide such assistance within the
3 limitations of available staff, funds, and other resources.
4 All municipalities and political subdivisions of the state are
5 authorized to enter into such agreements.

6 (2) Technical assistance includes ~~may include~~, but is
7 ~~shall not be~~ limited to, providing technical advice, written
8 reports, or and other information or materials, which and may
9 cover such subjects as management and personnel systems,
10 central administrative and support services, employee
11 training, and employee productivity.

12 (3) Technical assistance rendered to municipalities or
13 political subdivisions pursuant to this section may be on a
14 nonreimbursable basis or may be partly or wholly reimbursable
15 based upon the extent, nature, and duration of the requested
16 assistance; the extent of resources required; and the degree
17 to which the assistance would be of use to other
18 municipalities or political subdivisions of the state.

19 Section 24. Section 110.131, Florida Statutes, is
20 renumbered as section 109.131, Florida Statutes, and,
21 effective July 1, 2001, subsections (2) and (3) and paragraph
22 (c) of subsection (6) of said section are amended to read:

23 109.131 ~~110.131~~ Other-personal-services temporary
24 employment.--

25 (2) An agency may employ any qualified individual in
26 other-personal-services temporary employment for 100 hours in
27 any calendar month ~~1,040 hours within any 12-month~~ period. An
28 extension beyond a total of 100 hours in any calendar month
29 period ~~1,040 hours~~ within an agency for any individual
30 requires the approval of the Governor's Office of Policy and
31 Budget for good cause ~~agency head or a designee. Approval of~~

1 ~~extensions shall be made in accordance with criteria~~
2 ~~established by the department. Each agency shall maintain~~
3 ~~employee information as specified by the department regarding~~
4 ~~each extension of other personal services temporary~~
5 ~~employment.~~ The time limitation established by this
6 subsection does not apply to board members, ~~consultants,~~
7 ~~seasonal employees,~~ institutional clients employed as part of
8 their rehabilitation, or bona fide, degree-seeking students in
9 accredited secondary or postsecondary educational programs.

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

20 (6)

21 (c) Notwithstanding the provisions of this section,
22 the agency head or his or her designee may extend the
23 other-personal-services employment of a health care
24 practitioner licensed pursuant to chapter 458, chapter 459,
25 chapter 460, chapter 461, chapter 463, part I of chapter 464,
26 chapter 466, chapter 468, chapter 483, chapter 486, or chapter
27 490 beyond 2,080 hours per year and may employ such
28 practitioner on an hourly or other basis.

29 Section 25. Section 110.151, Florida Statutes, is
30 renumbered as section 109.151, Florida Statutes.

31

1 Section 26. Section 110.152, Florida Statutes, is
2 renumbered as section 109.152, Florida Statutes, and
3 subsection (4) of said section is amended to read:

4 109.152 ~~110.152~~ Adoption benefits for state or water
5 management district employees; parental leave.--

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

12 Section 27. Section 110.15201, Florida Statutes, is
13 renumbered as section 109.15201, Florida Statutes.

14 Section 28. Section 110.1521, Florida Statutes, is
15 renumbered as section 109.1521, Florida Statutes, and amended
16 to read:

17 109.1521 ~~110.1521~~ Short title.--Sections
18 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the
19 "Family Support Personnel Policies Act."

20 Section 29. Section 110.1522, Florida Statutes, is
21 renumbered as section 109.1522, Florida Statutes, and amended
22 to read:

23 109.1522 ~~110.1522~~ Model rule establishing family
24 support personnel policies.--The Department of Management
25 Services shall develop a model rule establishing family
26 support personnel policies for all executive branch agencies,
27 excluding the State University System. "Family support
28 personnel policies," for purposes of ss. 109.1521-109.1523
29 ~~110.1521-110.1523~~, means personnel policies affecting
30 employees' ability to both work and devote care and attention
31 to their families and includes policies on flexible hour work

1 schedules, compressed time, job sharing, part-time employment,
2 maternity or paternity leave for employees with a newborn or
3 newly adopted child, and paid and unpaid family or
4 administrative leave for family responsibilities.

5 Section 30. Section 110.1523, Florida Statutes, is
6 renumbered as section 109.1523, Florida Statutes, and amended
7 to read:

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

19 Section 31. Section 110.161, Florida Statutes, is
20 renumbered as section 109.161, Florida Statutes, and paragraph
21 (a) of subsection (6) of said section is amended to read:

22 109.161 ~~110.161~~ State employees; pretax benefits
23 program.--

24 (6) The Department of Management Services is
25 authorized to administer the pretax benefits program
26 established for all employees so that employees may receive
27 benefits that are not includable in gross income under the
28 Internal Revenue Code of 1986. The pretax benefits program:

29 (a) Shall allow employee contributions to premiums for
30 the state group insurance program administered under s.

31

1 109.123 ~~110.123~~ to be paid on a pretax basis unless an
2 employee elects not to participate.

3 Section 32. Section 110.171, Florida Statutes, is
4 renumbered as section 109.171, Florida Statutes, and paragraph
5 (c) of subsection (2) of said section is amended to read:

6 109.171 ~~110.171~~ State employee telecommuting
7 program.--

8 (2) The department shall:

9 (c) Identify state employees who are participating in
10 a telecommuting program and their job classifications through
11 the state personnel payroll information subsystem created
12 under s. 109.116 ~~110.116~~.

13 Section 33. Section 110.181, Florida Statutes, is
14 renumbered as section 109.181, Florida Statutes.

15 Section 34. Section 110.191, Florida Statutes, is
16 renumbered as section 109.191, Florida Statutes, and amended
17 to read:

18 109.191 ~~110.191~~ State employee leasing.--

19 (1) In situations where the Legislature has expressly
20 authorized the state, an agency, or the judicial branch as
21 defined in s. 109.203 ~~110.203~~ to lease employees, the
22 Executive Office of the Governor for the executive branch or
23 the Chief Justice for the judicial branch may authorize any of
24 the following actions related to such state employee leasing
25 activities, provided that the direct cost of such actions is
26 to be paid or reimbursed within 30 days after payment by the
27 entity or person to whom the employees are leased:

28 (a) Create a separate budget entity from which leased
29 employees shall be paid and transfer the positions authorized
30 to be leased to that budget entity.

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

1 (c) Authorized lump-sum salary bonuses to leased
2 employees; however, any lump-sum salary bonus above the
3 automatic salary increases which may be contained in the
4 General Appropriations Act must be funded from private
5 sources.

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

10 (e) Waive any requirement for automatic salary
11 increases which may be contained in the General Appropriations
12 Act.

13 (2) Positions which are in the Senior Management
14 Service System or the Selected Exempt Service System on the
15 day before the state employee lease agreement takes effect
16 shall remain in the respective system if the duties performed
17 by the position during the assignment of the state employee
18 lease agreement are comparable as determined by the
19 department. Those Senior Management Service System or
20 Selected Exempt Service System positions which are not
21 determined comparable by the department and positions which
22 are in other pay plans on the day before the lease agreement
23 takes effect shall have the same salaries and benefits
24 provided to employees of the Office of the Governor pursuant
25 to s. 109.205(2)(k)2 ~~110.205(2)(k)2~~.

26 Section 35. Section 110.201, Florida Statutes, is
27 renumbered as section 109.201, Florida Statutes.

28 Section 36. Section 109.202, Florida Statutes, is
29 created to read:

30 109.202 Career Service System; declaration of
31 policy.--It is the purpose of this part to create a Career

1 Service System that ensures the delivery of high-quality
2 performance in career service classifications by facilitating
3 the state's ability to attract, select, and retain qualified
4 personnel in these positions based on merit, while also
5 providing sufficient management flexibility to ensure that the
6 workforce is responsive to agency needs.

7 Section 37. Section 110.203, Florida Statutes, is
8 renumbered as section 109.203, Florida Statutes, and
9 subsections (11), (18), (19), (22), and (23) of said section
10 are amended to read:

11 109.203 ~~110.203~~ Definitions.--For the purpose of this
12 part and the personnel affairs of the state:

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

17 (18) "Promotion" means ~~the~~ changing ~~of~~ the
18 classification of an employee to a class having a higher
19 maximum salary; or ~~the~~ changing ~~of~~ the classification of an
20 employee to a class having the same or a lower maximum salary
21 but a higher level of responsibility as determined by the
22 Department of Management Services.

23 (19) "Demotion" means ~~the~~ changing ~~of~~ the
24 classification of an employee to a class having a lower
25 maximum salary; or ~~the~~ changing ~~of~~ the classification of an
26 employee to a class having the same or a higher maximum salary
27 but a lower level of responsibility as determined by the
28 Department of Management Services.

29 (22) "Dismissal" means a disciplinary action taken by
30 an agency against an employee resulting in termination of his
31

1 or her employment for a violation of agency standards or for
2 cause pursuant to s. 109.227 ~~110.227~~.

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

8 Section 38. Effective July 1, 2001, subsections (22),
9 (23), and (24) of section 109.203, Florida Statutes, as
10 renumbered and amended by this act, are amended to read:

11 109.203 Definitions.--For the purpose of this part and
12 the personnel affairs of the state:

13 (22) "Dismissal" means a disciplinary action taken by
14 an agency against an employee resulting in termination of his
15 or her employment for a violation of agency standards as
16 determined by the agency head or for other reasonable cause as
17 determined within the discretion of the agency head pursuant
18 to s. 109.227.

19 (23) "Suspension" means a disciplinary action taken by
20 an agency against an employee to temporarily relieve the
21 employee of his or her duties and place him or her on leave
22 without pay for violation of agency standards as determined by
23 the agency head or for other reasonable cause as determined
24 within the discretion of the agency head pursuant to s.
25 109.227.

26 (24) "Layoff" means termination of employment due to
27 abolishment of positions necessitated by a shortage of funds
28 or work, or a material change in the duties or organization of
29 an agency, including the outsourcing or privatization of an
30 activity or function previously performed by career service
31 employees.

1 Section 39. Effective January 1, 2002, subsections
2 (22) and (23) of section 109.203, Florida Statutes, as
3 renumbered and amended by this act, are amended to read:

4 109.203 Definitions.--For the purpose of this part and
5 the personnel affairs of the state:

6 (22) "Dismissal" means a disciplinary action taken by
7 an agency against an employee resulting in termination of his
8 or her employment ~~for a violation of agency standards as~~
9 ~~determined by the agency head or for other reasonable cause as~~
10 ~~determined within the discretion of the agency head pursuant~~
11 ~~to s. 109.227.~~

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

19 Section 40. Section 109.2035, Florida Statutes, is
20 created to read:

21 109.2035 Civil service classification and compensation
22 program.--

23 (1) The Department of Management Services, in
24 consultation with the Executive Office of the Governor, the
25 Legislature, and the affected certified bargaining units,
26 shall develop a model civil service classification and
27 compensation program. This model program shall be developed
28 for use by all state agencies and shall address all career
29 service classes.

30 (2) The model program shall consist of the following:
31

1 (a) A position classification system using no less
2 than 16 but no more than 32 occupational groups and a standard
3 six-class series structure for each occupational group.

4 (b) A career service pay plan establishing equitable
5 pay applicable to the position classification system.

6 (3) The career service pay plan shall provide for
7 broad, market-based salary ranges for each occupational group
8 and may include up to twelve pay bands. The pay plan shall not
9 include a step pay plan.

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

12 (a) The classification system must significantly
13 reduce the need to reclassify positions due to work assignment
14 and organizational changes by decreasing the number of
15 classification changes required.

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

19 (c) The classification system and pay plan must
20 emphasize pay administration and job performance evaluation by
21 management rather than use of the classification system to
22 award salary increases.

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

29 Section 41. Section 110.205, Florida Statutes, is
30 renumbered as section 109.205, Florida Statutes, paragraphs
31 (h) and (u) of subsection (2) and subsection (3) of said

1 section are amended, and, effective January 1, 2002, paragraph
2 (m) of subsection (2) of said section is amended, to read:
3 109.205 ~~110.205~~ Career service; exemptions.--
4 (2) EXEMPT POSITIONS.--The exempt positions which are
5 not covered by this part include the following, provided that
6 no position, except for positions established for a limited
7 period of time pursuant to paragraph (h), shall be exempted if
8 the position reports to a position in the career service:
9 (h) All positions which are established for a limited
10 period of time for the purpose of conducting a special study,
11 project, or investigation and any person paid from an
12 other-personal-services appropriation. Unless otherwise fixed
13 by law, the salaries for such positions and persons shall be
14 set in accordance with rules established by the employing
15 agency for other-personal-services payments pursuant to s.
16 109.131 ~~110.131~~.
17 (m)1.a. In addition to those positions exempted by
18 other paragraphs of this subsection, each department head may
19 designate a maximum of 20 policymaking or managerial
20 positions, as defined by the department and approved by the
21 Administration Commission, as being exempt from the Career
22 Service System. Career service employees who occupy a position
23 designated as a position in the Selected Exempt Service under
24 this paragraph shall have the right to remain in the Career
25 Service System by opting to serve in a position not exempted
26 by the employing agency. Unless otherwise fixed by law, the
27 department shall set the salary and benefits of these
28 positions in accordance with the rules of the Selected Exempt
29 Service; provided, however, that if the agency head determines
30 that the general counsel, chief Cabinet aide, public
31 information administrator or comparable position for a Cabinet

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

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

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

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

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

29 Section 42. Sections 110.207, 110.209, and 110.21,
30 Florida Statutes, are renumbered as sections 109.207, 109.209,
31 and 109.21, Florida Statutes, respectively.

1 Section 43. Section 110.211, Florida Statutes, is
2 renumbered as section 109.211, Florida Statutes, and amended
3 to read:

4 109.211 ~~110.211~~ Recruitment.--

5 (1) Recruiting shall be planned and carried out in a
6 manner that assures open competition based upon current and
7 projected employing agency needs, taking into consideration
8 the number and types of positions to be filled and the labor
9 market conditions, with special emphasis placed on recruiting
10 efforts to attract minorities, women, or other groups that are
11 underrepresented in the workforce of the employing agency.

12 (2) Recruiting efforts to fill current or projected
13 vacancies shall be the responsibility of the employing agency.

14 (3) The department shall provide for executive-level
15 recruitment and a recruitment enhancement program designed to
16 encourage individuals to seek employment with state government
17 and to promote better public understanding of the state as an
18 employer.

19 (4) An application for a publicly announced vacancy
20 must be made directly to the employing agency.

21 (5) All recruitment literature printed after July 1,
22 1979, involving state position vacancies shall contain the
23 phrase "An Equal Opportunity Employer/Affirmative Action
24 Employer."

25 (6) The department shall develop uniform ~~model~~
26 recruitment rules which shall ~~may~~ be used by employing
27 agencies. Such rules must be approved by the Administration
28 Commission before their adoption by the department. The
29 uniform rules shall be the rules of recruitment procedure for
30 each agency unless the Administration Commission grants an
31 exception to the agency. ~~Employing agencies electing to adopt~~

1 ~~recruitment rules that are inconsistent with the model rules~~
2 ~~must consult with and submit such rules to the department for~~
3 ~~review. Such rules must also be approved by the~~
4 ~~Administration Commission before their adoption by the~~
5 ~~employing agencies.~~

6 Section 44. Section 110.213, Florida Statutes, is
7 renumbered as section 109.213, Florida Statutes, and amended
8 to read:

9 109.213 ~~110.213~~ Selection.--

10 (1) The department shall have the responsibility for
11 determining guidelines for selection procedures to be utilized
12 by the employing agencies.

13 (2) Any selection procedure utilized in state
14 employment shall be designed to provide maximum validity,
15 reliability, and objectivity; shall be based on adequate job
16 analysis to ensure job relatedness; and shall measure the
17 relative ability, knowledge, and skill needed for entry to a
18 job.

19 (3) Selection for appointment from among the most
20 qualified available eligibles shall be the responsibility of
21 the employing agency.

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

1 ~~rules must also be approved by the Administration Commission~~
2 ~~before their adoption by the employing agencies.~~

3 Section 45. Sections 110.2135, 110.215, and 110.217,
4 Florida Statutes, are renumbered as sections 109.2135,
5 109.215, and 109.217, Florida Statutes, respectively.

6 Section 46. Section 110.219, Florida Statutes, is
7 renumbered as section 109.219, Florida Statutes, and paragraph
8 (c) of subsection (5) of said section is amended to read:

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

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

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

18 Section 47. Section 110.221, Florida Statutes, is
19 renumbered as section 109.221, Florida Statutes.

20 Section 48. Section 110.224, Florida Statutes, is
21 renumbered as section 109.224, Florida Statutes, and amended
22 to read:

23 109.224 ~~110.224~~ Review and performance evaluation
24 planning system.--A review and performance evaluation planning
25 system shall be established as a basis to evaluate and improve
26 ~~for improving~~ the performance of the state's workforce, ~~to~~
27 ~~provide documentation in support of recommendations for salary~~
28 ~~increases, promotions, demotions, reassignments, or~~
29 ~~dismissals~~ to inform employees of strong and weak points in
30 the employee's performance, and to identify improvements
31

1 ~~expected, and current and future training needs; and to assist~~
2 ~~in determining the order of layoff and reemployment.~~

3 (1) Upon original appointment, promotion, demotion, or
4 reassignment, a job description of the position assigned each
5 ~~career service employee~~ must be made available to the career
6 service employee ~~given a statement of the work expectations~~
7 ~~and performance standards applicable to the position.~~ The job
8 description may be made available in an electronic format.
9 ~~statement may be included in the position description or in a~~
10 ~~separate document. An employee will not be required to meet~~
11 ~~work expectations or performance standards that have not been~~
12 ~~furnished in writing to the employee.~~

13 (2) Each employee must have a ~~employee's~~ performance
14 evaluation ~~must be reviewed~~ at least annually, and the
15 employee must receive a copy ~~an oral and written assessment~~ of
16 his or her performance evaluation. The performance evaluation
17 ~~assessment~~ may include a plan of ~~corrective~~ action for
18 improvement of the employee's performance based on the work
19 expectations or performance standards applicable to the
20 position as determined by the agency head.

21 (3) The department may adopt rules to administer the
22 review and performance evaluation ~~planning~~ system which
23 establish procedures for performance evaluation, ~~procedures to~~
24 ~~be followed in case of failure to meet performance standards,~~
25 review periods, and forms.

26 Section 49. Section 110.227, Florida Statutes, is
27 renumbered as section 109.227, Florida Statutes, and,
28 effective July 1, 2001, subsections (1), (2), and (3) and
29 paragraph (a) of subsection (5) of said section are amended,
30 present subsections (6) and (7) are amended and renumbered,
31 and a new subsection (6) is added to said section, to read:

1 109.227 ~~110.227~~ Suspensions, dismissals, reductions in
2 pay, demotions, layoffs, transfers, and grievances.--

3 (1) Any employee who has permanent status in the
4 career service may only be suspended or dismissed for
5 reasonable cause. Reasonable cause shall be a determination
6 made within the sound discretion of the agency head and
7 includes ~~include~~, but is not ~~be~~ limited to, negligence,
8 inefficiency or inability to perform assigned duties,
9 insubordination, ~~willful~~ violation of the provisions of law or
10 agency rules, conduct unbecoming a public employee,
11 misconduct, habitual drug abuse, or conviction of any crime
12 ~~involving moral turpitude. The Each~~ agency head shall ensure
13 that all employees of the agency have reasonable access to the
14 agency's personnel manual ~~are completely familiar with the~~
15 ~~agency's established procedures on disciplinary actions and~~
16 ~~grievances.~~

17 (2) The department shall establish rules and
18 procedures for the suspension, reduction in pay, transfer,
19 layoff, demotion, and dismissal of employees in the career
20 service. Rules regarding layoff procedures shall not include
21 any system whereby a career service employee with greater
22 seniority has the option of selecting a different position not
23 being eliminated, but already occupied by an employee of less
24 seniority, and taking that employee's position, commonly
25 referred to as "bumping."Such rules shall be approved by the
26 Administration Commission prior to their adoption by the
27 department. This subsection does not prohibit collective
28 bargaining units from seeking to incorporate "bumping" in
29 their collective bargaining agreements.

30 ~~(3)(a) When a layoff becomes necessary, such layoff~~
31 ~~shall be conducted within the competitive area identified by~~

1 ~~the agency head and approved by the Department of Management~~
2 ~~Services. Such competitive area shall be established taking~~
3 ~~into consideration the similarity of work; the organizational~~
4 ~~unit, which may be by agency, department, division, bureau, or~~
5 ~~other organizational unit; and the commuting area for the work~~
6 ~~affected.~~

7 ~~(b)~~ Layoff procedures shall be developed to establish
8 the relative merit and fitness of employees and shall include
9 a formula for uniform application among potentially adversely
10 affected ~~all employees in the competitive area~~, taking into
11 consideration the type of appointment, the length of service,
12 and the evaluations of the employee's performance within the
13 last 5 years of employment.

14 (5)(a) Any permanent career service employee who is
15 subject to suspension or dismissal shall receive written
16 notice of such action at least 10 days prior to the date such
17 action is to be taken. Subsequent to such notice, and prior
18 to the date the action is to be taken, the affected employee
19 shall be given an opportunity to appear before the agency head
20 or the agency head's designee to rebut the conclusion that
21 reasonable grounds exist for the suspension or dismissal ~~or~~
22 ~~official taking the action to answer orally and in writing the~~
23 ~~charges against him or her.~~ The notice to the employee
24 required by this paragraph may be delivered to the employee
25 personally or may be sent by certified mail with return
26 receipt requested. An employee who is suspended or dismissed
27 shall be entitled to a hearing before the Public Employees
28 Relations Commission or its designated agent pursuant to s.
29 447.208 and rules adopted by the commission.

30 (6) For any alleged adverse agency action against an
31 employee occurring on or after July 1, 2001, the adversely

1 affected employee bears the burden of proof to establish by
2 preponderance of the evidence that the agency head abused his
3 or her discretion in suspending, dismissing, reducing the pay
4 of, demoting, laying off, or transferring that employee and
5 that no reasonable cause existed for the alleged adverse
6 action taken by the agency, or that the alleged adverse action
7 was in violation of s. 109.233.

8 (7)(6) A grievance process shall be available to
9 career service employees. A grievance is defined as the
10 dissatisfaction that occurs when an employee believes ~~thinks~~
11 ~~or feels~~ that any condition affecting the employee is unjust,
12 inequitable, or a hindrance ~~hinderance~~ to effective operation,
13 or creates a problem, except that an employee shall not have
14 the right to file a grievance against performance evaluations
15 unless the employee alleges it is alleged that the evaluation
16 is based on factors other than the employee's performance.
17 Claims of discrimination and sexual harassment, suspensions,
18 reductions in pay, transfers, layoffs, demotions, and
19 dismissals are not subject to the career service grievance
20 process.

21 (8)(7) The department shall adopt rules for
22 administration of the grievance process for career service
23 employees. Such rules shall establish agency grievance
24 procedures, eligibility, filing deadlines, forms, and review
25 and evaluation governing the grievance process.

26 Section 50. Effective January 1, 2002, section
27 109.227, Florida Statutes, as renumbered and amended by this
28 act, is amended to read:

29 (Substantial rewording of section. See
30 s. 109.227, F.S., for present text.)

31

1 109.227 Suspensions, dismissals, reductions in pay,
2 demotions, layoffs, transfers, and grievances.--

3 (1) Employees in the Career Service System shall serve
4 at the pleasure of the agency head and shall be subject to
5 suspension, dismissal, reductions in pay, demotions, layoffs,
6 transfers, or other personnel action at the discretion of the
7 agency head. Such personnel actions are exempt from the
8 provisions of chapter 120.

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

23 (3)(a) Any permanent career service employee who is
24 subject to suspension or dismissal shall receive written
25 notice of such action at least 10 days prior to the date such
26 action is to be taken. The notice to the employee required by
27 this paragraph may be delivered to the employee personally or
28 may be sent by certified mail with return receipt requested.
29 As of January 1, 2002, an employee who is suspended or
30 dismissed shall be entitled to a hearing before the circuit
31 court, or the aggrieved employee and his or her employer may

1 agree to submit to voluntary binding arbitration as provided
2 in s. 109.240. Appeals based on the protections provided by
3 the Whistle-blower's Act, ss. 112.3187-112.31895, must be
4 filed with the Commission on Human Relations as provided for
5 in that act.

6 (b) In extraordinary situations such as when the
7 retention of a permanent career service employee would result
8 in damage to state property, would be detrimental to the best
9 interest of the state, or would result in injury to the
10 employee, a fellow employee, or some other person, such
11 employee may be suspended or dismissed without 10 days' prior
12 notice. Such notice may be delivered to the employee
13 personally or may be sent by certified mail with return
14 receipt requested. Agency compliance with the foregoing
15 procedure requiring notice must be substantiated. As of
16 January 1, 2002, any employee who is suspended or dismissed
17 pursuant to the provisions of this paragraph shall be entitled
18 to a hearing before the circuit court, or the aggrieved
19 employee and his or her employer may agree to submit to
20 voluntary binding arbitration as provided in s. 109.240.
21 Appeals based on the protections provided by the
22 Whistle-blower's Act, ss. 112.3187-112.31895, must be filed
23 with the Commission on Human Relations as provided for in that
24 act.

25 (4) A grievance process shall be available to career
26 service employees. A grievance is defined as the
27 dissatisfaction that occurs when an employee believes that any
28 condition affecting the employee is unjust, inequitable, or a
29 hindrance to effective operation, or creates a problem, except
30 that an employee shall not have the right to file a grievance
31 against performance evaluations unless the employee alleges

1 that the evaluation is based on factors other than the
2 employee's performance. Claims of discrimination and sexual
3 harassment, suspensions, reductions in pay, transfers,
4 layoffs, demotions, and dismissals are not subject to the
5 career service grievance process.

6 (5) The department shall adopt rules for
7 administration of the grievance process for career service
8 employees. Such rules shall establish agency grievance
9 procedures, eligibility, filing deadlines, forms, and review
10 and evaluation governing the grievance process.

11 Section 51. Section 110.233, Florida Statutes, is
12 renumbered as section 109.233, Florida Statutes, and paragraph
13 (a) of subsection (4) of said section is amended to read:

14 109.233 ~~110.233~~ Political activities and unlawful acts
15 prohibited.--

16 (4) As an individual, each employee retains all rights
17 and obligations of citizenship provided in the Constitution
18 and laws of the state and the Constitution and laws of the
19 United States. However, no employee in the career service
20 shall:

21 (a) Hold, or be a candidate for, public office while
22 in the employment of the state or take any active part in a
23 political campaign while on duty or within any period of time
24 during which the employee is expected to perform services for
25 which he or she receives compensation from the state. However,
26 when authorized by his or her agency head and approved by the
27 department ~~of Management Services~~ as involving no interest
28 which conflicts or activity which interferes with his or her
29 state employment, an employee in the career service may be a
30 candidate for or hold local public office. The department ~~of~~
31 ~~Management Services~~ shall prepare and make available to all

1 affected personnel who make such request a definite set of
2 rules and procedures consistent with the provisions herein.

3 Section 52. Section 110.235, Florida Statutes, is
4 renumbered as section 109.235, Florida Statutes, and
5 subsection (1) of said section is amended to read:

6 109.235 ~~110.235~~ Training.--

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

14 Section 53. Effective January 1, 2002, section
15 109.240, Florida Statutes, is created to read:

16 109.240 Voluntary binding arbitration.--

17 (1) Upon receipt of notice of an adverse agency
18 action, any permanent career service employee may request
19 voluntary binding arbitration administered by the Division of
20 Human Resource Management of the Department of Management
21 Services. As used in this section, "adverse agency action"
22 means the suspension, dismissal, reduction in pay or
23 withholding of bonuses, demotion, layoff, or transfer of an
24 employee. Any eligible employee choosing to participate in
25 voluntary binding arbitration must file a written request for
26 arbitration with the division no later than 14 days after the
27 receipt of notice of the adverse agency action.

28 (2) The arbitration request must be submitted on a
29 form prescribed by the division by rule. The form must be
30 signed by the employee and must include stipulations that:
31

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

3 (b) The employee agrees to participate in binding
4 arbitration unless the other party files a timely objection.

5 (c) The arbitration order is final and may not be set
6 aside except for an error in law that is apparent on the
7 record.

8 (d) The employee will faithfully abide by the
9 arbitration order unless otherwise determined by a court of
10 competent jurisdiction.

11 (3) Upon receipt of the arbitration request, the
12 division shall provide written notice to the agency against
13 which a request is made regarding the employee request for
14 binding arbitration. The agency must participate in the
15 requested binding arbitration unless it provides written
16 notice to the division declining to participate in binding
17 arbitration within 10 days after its receipt of the
18 arbitration request. Absent a written notice of objection, the
19 option to not proceed with binding arbitration is waived, and
20 the agency head shall be bound by the stipulations contained
21 in the arbitration request form. Binding arbitration shall not
22 be conducted pursuant to this section unless the employee
23 requests it and the agency head does not timely object.

24 (4) The employee bears the burden of establishing by a
25 preponderance of the evidence that the agency action
26 complained of was adverse and that the agency head abused his
27 or her discretion in taking the adverse agency action, and
28 that no reasonable cause existed for the adverse agency
29 action.

30 (5) The voluntary binding arbitration shall be heard
31 and determined by a panel of three career service employees,

1 selected at random from the employee pool, with the procedural
2 direction and legal advice of an attorney arbitrator appointed
3 by the division. Once selected, the division shall not
4 communicate with the arbitrator or the employee panel other
5 than at a hearing or through properly filed documents, unless
6 both parties agree otherwise. Any party may be represented by
7 counsel or another appointed representative. The arbitrator
8 and employee panel must complete all arbitration of the
9 employee's claims raised in the request within 60 days after
10 receipt of the claim. The arbitrator may extend the 60-day
11 period upon request of the parties or at the request of one
12 party, after a hearing on that party's request for extension.

13 (6)(a) The arbitrator selected by the division shall
14 not be an employee within the Career Service System, the
15 Select Management Service, or the Selected Exempt Service.
16 Each selected arbitrator must, at a minimum, meet the
17 following requirements:

18 1. Completion of a Florida Supreme Court certified
19 circuit or county arbitration program, or other arbitration
20 program approved by the division, in addition to a minimum of
21 1 day of training in the application of this chapter and
22 chapter 447 and any rules adopted thereunder.

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

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

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

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

20 (7)(a) The employee panel shall consist of randomly
21 selected career service employees chosen by the division in a
22 manner to ensure a balanced representation of employees from
23 each pay classification. At least one of the employees
24 selected to serve on an employee panel must be a member of the
25 same pay classification as the employee requesting binding
26 arbitration. In addition, no employee currently employed or
27 employed within the past 6 months by the agency participating
28 in the binding arbitration shall be selected for that employee
29 panel. Employees selected to serve on a binding arbitration
30 employee panel shall hear all evidence submitted by the
31 parties in arbitration and their decision shall be governed by

1 the statutory burden of proof. The division shall reimburse
2 agencies for the daily tasks of each agency employee that
3 serves on an employee panel.

4 (b) The employee panel shall make all findings of fact
5 and determinations of claims. The arbitrator shall draft the
6 arbitration decision for submission to the employee panel for
7 their approval and signatures. Unless otherwise provided in
8 the decision, the decision shall become final 10 days after
9 its execution by the panel.

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

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

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

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

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

30 3. Filling vacancies.
31

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

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

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

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

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

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

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

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

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

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

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

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

30 1. The exchange and filing of information among the
31 parties.

1 2. Discovery.
2 3. Offering evidence.
3 4. Calling and excluding witnesses.
4 5. Submitting evidence by affidavit.
5 6. Attendance of the parties and witnesses.
6 7. The order of proceedings.
7 (b) The division may adopt additional rules necessary
8 to implement this section.
9 (12) Either party may make application to the circuit
10 court for the county in which one of the parties resides or
11 has a place of business, or the county where the arbitration
12 hearing was held, for an order enforcing, vacating, or
13 modifying the arbitration decision. Such application must be
14 filed within 30 days after the later of the moving party's
15 receipt of the written decision or the date the decision
16 becomes final. Upon filing such application, the moving party
17 shall mail a copy to the office and, upon entry of any
18 judgment or decree, shall mail a copy of such judgment or
19 decree to the division. A review of such application to
20 circuit court shall be limited to review on the record and not
21 de novo, of:
22 (a) Any alleged failure of the arbitrator to comply
23 with the applicable rules of procedure or evidence.
24 (b) Any alleged partiality or misconduct by an
25 arbitrator prejudicing the rights of any party.
26 (c) Whether the decision reaches a result contrary to
27 the United States Constitution or the Florida Constitution.
28
29 If the arbitrator and employee panel fail to state findings or
30 reasons for the stated decision, or the findings and reasons
31

1 are inadequate, the court shall search the record to determine
2 whether a basis exists to uphold the decision.

3 (13) The division, the arbitrator, and the employee
4 panel shall have absolute immunity from liability arising from
5 the performance of their duties while acting within the scope
6 of their appointed function in any arbitration conducted under
7 this section.

8 Section 54. Section 110.401, Florida Statutes, is
9 renumbered as section 109.401, Florida Statutes, and amended
10 to read:

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

24 Section 55. Section 110.402, Florida Statutes, is
25 renumbered as section 109.402, Florida Statutes, and
26 subsection (2) of said section is amended to read:

27 109.402 ~~110.402~~ Senior Management Service; creation,
28 coverage.--

29 (2) The Senior Management Service shall be limited to
30 those positions which are exempt from the Career Service
31 System by s. 109.205(2)~~110.205(2)~~ and for which the salaries

1 and benefits are set by the department in accordance with the
2 rules of the Senior Management Service.

3 Section 56. Section 110.403, Florida Statutes, is
4 renumbered as section 109.403, Florida Statutes, and amended
5 to read:

6 109.403 ~~110.403~~ Powers and duties of the Department of
7 Management Services.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 Section 57. Effective July 1, 2001, paragraph (a) of
6 subsection (1) of section 109.403, Florida Statutes, as
7 renumbered and amended by this act, is amended to read:

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

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

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

30 Section 58. Section 110.405, Florida Statutes, is
31 renumbered as section 109.405, Florida Statutes.

1 Section 59. Section 110.406, Florida Statutes, is
2 renumbered as section 109.406, Florida Statutes, and paragraph
3 (a) of subsection (2) and subsection (3) of said section are
4 amended to read:

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

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

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

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

16 Section 60. Section 110.501, Florida Statutes, is
17 renumbered as section 109.501, Florida Statutes.

18 Section 61. Section 110.502, Florida Statutes, is
19 renumbered as section 109.502, Florida Statutes, and
20 subsections (2) and (3) of said section are amended to read:

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

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

31

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

11 Section 62. Sections 110.503 and 110.504, Florida
12 Statutes, are renumbered as sections 109.503 and 109.504,
13 Florida Statutes, respectively.

14 Section 63. Section 110.601, Florida Statutes, is
15 renumbered as section 109.601, Florida Statutes, and amended
16 to read:

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

31

1 Section 64. Section 110.602, Florida Statutes, is
2 renumbered as section 109.602, Florida Statutes, and amended
3 to read:

4 109.602 ~~110.602~~ Selected Exempt Service; creation,
5 coverage.--The Selected Exempt Service is created as a
6 separate system of personnel administration for select exempt
7 positions. Such positions shall include, and shall be limited
8 to, those positions which are exempt from the Career Service
9 System pursuant to s. 109.205(2) and (5)~~110.205(2) and (5)~~
10 and for which the salaries and benefits are set by the
11 department in accordance with the rules of the Selected Exempt
12 Service. The department shall designate all positions included
13 in the Selected Exempt Service as either
14 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 65. Effective July 1, 2001, section 109.602,
28 Florida Statutes, as renumbered and amended by this act, is
29 amended to read:

30 109.602 Selected Exempt Service; creation,
31 coverage.--The Selected Exempt Service is created as a

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

21 Section 66. Sections 110.603 and 110.604, Florida
22 Statutes, are renumbered as sections 109.603 and 109.604,
23 Florida Statutes, respectively.

24 Section 67. Section 110.605, Florida Statutes, is
25 renumbered as section 109.605, Florida Statutes, and
26 subsection (1) of said section is amended to read:

27 109.605 ~~110.605~~ Powers and duties; personnel rules,
28 records, reports, and performance appraisal.--

29 (1) The department shall adopt and administer uniform
30 personnel rules, records, and reports relating to employees
31 and positions in the Selected Exempt Service, as well as any

1 other rules and procedures relating to personnel
2 administration which are necessary to carry out the purposes
3 of this part.

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

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

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

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

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

30
31

1 Section 68. Section 110.606, Florida Statutes, is
2 renumbered as section 109.606, Florida Statutes, and paragraph
3 (c) of subsection (2) of said section is amended to read:

4 109.606 ~~110.606~~ Selected Exempt Service; data
5 collection.--

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

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

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

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

23 Section 69. (1) Sections 109.105 through 109.191,
24 Florida Statutes, are designated as part I of chapter 109,
25 Florida Statutes, to be entitled "General State Employment
26 Provisions."

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

30
31

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

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

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

10 Section 70. Paragraph (c) of subsection (2) and
11 paragraph (d) of subsection (3) of section 20.171, Florida
12 Statutes, are amended to read:

13 20.171 Department of Labor and Employment
14 Security.--There is created a Department of Labor and
15 Employment Security. The department shall operate its programs
16 in a decentralized fashion.

17 (2)

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

27 (3)

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

31

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

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

29 4. The department shall, by rule or internal
30 management memoranda as required by chapter 120, provide for
31 the maintenance by the comptroller of financial records and

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

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

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

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

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

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

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

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

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

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

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

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

30 Section 71. Subsection (3) of section 20.18, Florida
31 Statutes, is amended to read:

1 20.18 Department of Community Affairs.--There is
2 created a Department of Community Affairs.

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

13 Section 72. Subsection (6) of section 20.21, Florida
14 Statutes, is amended to read:

15 20.21 Department of Revenue.--There is created a
16 Department of Revenue.

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

24 Section 73. Paragraph (d) of subsection (1), paragraph
25 (h) of subsection (2), paragraphs (d), (f), (h), and (i) of
26 subsection (3), paragraphs (c) and (d) of subsection (4), and
27 subsection (5) of section 20.23, Florida Statutes, are amended
28 to read:

29 20.23 Department of Transportation.--There is created
30 a Department of Transportation which shall be a decentralized
31 agency.

1 (1)

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

10 (2)

11 (h) The commission shall appoint an executive director
12 and 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.
17 All employees of the commission are exempt from part II of
18 chapter 109 ~~110~~ and shall serve at the pleasure of the
19 commission. The salaries and benefits of all employees of the
20 commission shall be set in accordance with the Selected Exempt
21 Service; provided, however, that the commission shall have
22 complete authority for fixing the salary of the executive
23 director and assistant executive director.

24 (3)

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

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

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

1 c. Assessing and ensuring the accuracy of information
2 within the department's financial management information
3 systems; and
4 d. Performing other activities of a statewide nature.
5 2. The following offices are established and shall be
6 headed by a manager, each of whom shall be appointed by and
7 serve at the pleasure of the secretary. The positions shall be
8 classified at a level equal to a division director:
9 a. The Office of Administration;
10 b. The Office of Policy Planning;
11 c. The Office of Design;
12 d. The Office of Highway Operations;
13 e. The Office of Right-of-Way;
14 f. The Office of Toll Operations;
15 g. The Office of Information Systems; and
16 h. The Office of Motor Carrier Compliance.
17 3. Other offices may be established in accordance with
18 s. 20.04(7). The heads of such offices are exempt from part II
19 of chapter 109 ~~110~~. No office or organization shall be created
20 at a level equal to or higher than a division without specific
21 legislative authority.
22 4. During the construction of a major transportation
23 improvement project or as determined by the district
24 secretary, the department may provide assistance to a business
25 entity significantly impacted by the project if the entity is
26 a for-profit entity that has been in business for 3 years
27 prior to the beginning of construction and has direct or
28 shared access to the transportation project being constructed.
29 The assistance program shall be in the form of additional
30 guarantees to assist the impacted business entity in receiving
31 loans pursuant to Title 13 C.F.R. part 120. However, in no

1 instance shall the combined guarantees be greater than 90
2 percent of the loan. The department shall adopt rules to
3 implement this subparagraph.

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

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

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

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

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

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

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

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

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

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

31

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

1 5. The comptroller shall perform such other related
2 duties as designated by the department.

3 (4)

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

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

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

21 Section 74. Subsection (2) of section 20.255, Florida
22 Statutes, is amended to read:

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

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

1 is to be appointed by and serve at the pleasure of the
2 secretary:

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

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

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

22 Section 75. Paragraph (b) of subsection (3) and
23 paragraph (e) of subsection (6) of section 20.315, Florida
24 Statutes, are amended to read:

25 20.315 Department of Corrections.--There is created a
26 Department of Corrections.

27 (3) SECRETARY OF CORRECTIONS.--The head of the
28 Department of Corrections is the Secretary of Corrections.
29 The secretary is appointed by the Governor, subject to
30 confirmation by the Senate, and shall serve at the pleasure of
31 the Governor. The secretary is responsible for planning,

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

9 (b) The secretary shall appoint a general counsel and
10 an inspector general, who are exempt from part II of chapter
11 109 ~~110~~ and are included in the Senior Management Service.

12 (6) FLORIDA CORRECTIONS COMMISSION.--

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

30 Section 76. Paragraph (d) of subsection (20) of
31 section 24.105, Florida Statutes, is amended to read:

1 24.105 Powers and duties of department.--The
2 department shall:
3 (20) Employ division directors and other staff as may
4 be necessary to carry out the provisions of this act; however:
5 (d) The department shall establish and maintain a
6 personnel program for its employees, including a personnel
7 classification and pay plan which may provide any or all of
8 the benefits provided in the Senior Management Service or
9 Selected Exempt Service. Each officer or employee of the
10 department shall be a member of the Florida Retirement System.
11 The retirement class of each officer or employee shall be the
12 same as other persons performing comparable functions for
13 other agencies. Employees of the department shall serve at
14 the pleasure of the secretary and shall be subject to
15 suspension, dismissal, reduction in pay, demotion, transfer,
16 or other personnel action at the discretion of the secretary.
17 Such personnel actions are exempt from the provisions of
18 chapter 120. All employees of the department are exempt from
19 the Career Service System provided in chapter 109 ~~110~~ and,
20 notwithstanding the provisions of s. 109.205(5)~~110.205(5)~~,
21 are not included in either the Senior Management Service or
22 the Selected Exempt Service. However, all employees of the
23 department are subject to all standards of conduct adopted by
24 rule for career service and senior management employees
25 pursuant to chapter 109 ~~110~~. In the event of a conflict
26 between standards of conduct applicable to employees of the
27 Department of the Lottery the more restrictive standard shall
28 apply. Interpretations as to the more restrictive standard may
29 be provided by the Commission on Ethics upon request of an
30 advisory opinion pursuant to s. 112.322(3)(a), for purposes of
31 this subsection the opinion shall be considered final action.

1 Section 77. Paragraph (d) of subsection (4) of section
2 24.122, Florida Statutes, is amended to read:

3 24.122 Exemption from taxation; state preemption;
4 inapplicability of other laws.--

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

14 (d) Section 109.131 ~~110.131~~, relating to other
15 personal services.

16 Section 78. Subsection (1) of section 68.087, Florida
17 Statutes, is amended to read:

18 68.087 Exemptions to civil actions.--

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

28 Section 79. Subsection (3) of section 104.31, Florida
29 Statutes, is amended to read:

30 104.31 Political activities of state, county, and
31 municipal officers and employees.--

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

8 Section 80. Subsection (3) of section 106.082, Florida
9 Statutes, is amended to read:

10 106.082 Commissioner of Agriculture candidates;
11 campaign contribution limits.--

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

29 Section 81. Subsection (4) of section 106.24, Florida
30 Statutes, is amended to read:

31

1 106.24 Florida Elections Commission; membership;
2 powers; duties.--

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

16 Section 82. Subsection (4) of section 112.044, Florida
17 Statutes, is amended to read:

18 112.044 Public employers, employment agencies, labor
19 organizations; discrimination based on age prohibited;
20 exceptions; remedy.--

21 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
22 the state who is within the Career Service System established
23 by chapter 109 ~~110~~ and who is aggrieved by a violation of this
24 act may appeal to the Public Employees Relations Commission
25 under the conditions and following the procedures prescribed
26 in part II of chapter 447. Any person other than an employee
27 who is within the Career Service System established by chapter
28 109 ~~110~~, or any person employed by the Public Employees
29 Relations Commission, who is aggrieved by a violation of this
30 act may bring a civil action in any court of competent
31

1 jurisdiction for such legal or equitable relief as will
2 effectuate the purposes of this act.

3 Section 83. Section 112.0805, Florida Statutes, is
4 amended to read:

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

12 Section 84. Paragraph (a) of subsection (9) of section
13 112.313, Florida Statutes, is amended to read:

14 112.313 Standards of conduct for public officers,
15 employees of agencies, and local government attorneys.--

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

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

23 2. As used in this paragraph:

24 a. "Employee" means:

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

1 (II) The Auditor General, the Sergeant at Arms and
2 Secretary of the Senate, and the Sergeant at Arms and Clerk of
3 the House of Representatives.

4 (III) The executive director of the Legislative
5 Committee on Intergovernmental Relations and the executive
6 director and deputy executive director of the Commission on
7 Ethics.

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

18 (V) The Chancellor and Vice Chancellors of the State
19 University System; the general counsel to the Board of
20 Regents; and the president, vice presidents, and deans of each
21 state university.

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

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

31

1 c. "State agency" means an entity of the legislative,
2 executive, or judicial branch of state government over which
3 the Legislature exercises plenary budgetary and statutory
4 control.

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

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

20 5. Any person violating this paragraph shall be
21 subject to the penalties provided in s. 112.317 and a civil
22 penalty of an amount equal to the compensation which the
23 person receives for the prohibited conduct.

24 6. This paragraph is not applicable to:

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

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

30
31

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

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

7 e. Any appointed state officer whose term of office
8 began before January 1, 1995, unless reappointed to that
9 office on or after January 1, 1995.

10 Section 85. Paragraph (a) of subsection (5) of section
11 112.3189, Florida Statutes, is amended to read:

12 112.3189 Investigative procedures upon receipt of
13 whistle-blower information from certain state employees.--

14 (5)(a) If the Chief Inspector General or agency
15 inspector general under subsection (3) determines that the
16 information disclosed is the type of information described in
17 s. 112.3187(5), that the source of the information is from a
18 person who is an employee or former employee of, or an
19 applicant for employment with, a state agency, as defined in
20 s. 216.011, and that the information disclosed demonstrates
21 reasonable cause to suspect that an employee or agent of an
22 agency or independent contractor has violated any federal,
23 state, or local law, rule, or regulation, thereby creating a
24 substantial and specific danger to the public's health,
25 safety, or welfare, or has committed an act of gross
26 mismanagement, malfeasance, misfeasance, gross waste of public
27 funds, or gross neglect of duty, the Chief Inspector General
28 or agency inspector general making such determination shall
29 then conduct an investigation, unless the Chief Inspector
30 General or the agency inspector general determines, within 30
31 days after receiving the allegations from the complainant,

1 that such investigation is unnecessary. For purposes of this
2 subsection, the Chief Inspector General or the agency
3 inspector general shall consider the following factors, but is
4 not limited to only the following factors, when deciding
5 whether the investigation is not necessary:

6 1. The gravity of the disclosed information compared
7 to the time and expense of an investigation.

8 2. The potential for an investigation to yield
9 recommendations that will make state government more efficient
10 and effective.

11 3. The benefit to state government to have a final
12 report on the disclosed information.

13 4. Whether the alleged whistle-blower information
14 primarily concerns personnel practices that may be
15 investigated under chapter 109 ~~110~~.

16 5. Whether another agency may be conducting an
17 investigation and whether any investigation under this section
18 could be duplicative.

19 6. The time that has elapsed between the alleged event
20 and the disclosure of the information.

21 Section 86. Subsection (2) of section 112.363, Florida
22 Statutes, is amended to read:

23 112.363 Retiree health insurance subsidy.--

24 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
25 SUBSIDY.--A person who is retired under a state-administered
26 retirement system, or a beneficiary who is a spouse or
27 financial dependent entitled to receive benefits under a
28 state-administered retirement system, is eligible for health
29 insurance subsidy payments provided under this section; except
30 that pension recipients under ss. 121.40, 238.07(16)(a), and
31 250.22, recipients of health insurance coverage under s.

1 109.1232 ~~110.1232~~, or any other special pension or relief act
2 shall not be eligible for such payments. Payment of the
3 retiree health insurance subsidy shall be made only after
4 coverage for health insurance for the retiree or beneficiary
5 has been certified in writing to the Department of Management
6 Services. Participation in a former employer's group health
7 insurance program is not a requirement for eligibility under
8 this section. However, participants in the Senior Management
9 Service Optional Annuity Program as provided in s. 121.055(6)
10 and the State University System Optional Retirement Program as
11 provided in s. 121.35 shall not receive the retiree health
12 insurance subsidy provided in this section. The employer of
13 such participant shall pay the contributions required in
14 subsection (8) to the annuity program provided in s.
15 121.055(6)(d) or s. 121.35(4)(a), as applicable.

16 Section 87. Effective July 1, 2001, paragraph (a) of
17 subsection (2) of section 112.363, Florida Statutes, as
18 amended by chapter 2000-169, Laws of Florida, is amended to
19 read:

20 112.363 Retiree health insurance subsidy.--

21 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
22 SUBSIDY.--

23 (a) A person who is retired under a state-administered
24 retirement system, or a beneficiary who is a spouse or
25 financial dependent entitled to receive benefits under a
26 state-administered retirement system, is eligible for health
27 insurance subsidy payments provided under this section; except
28 that pension recipients under ss. 121.40, 238.07(16)(a), and
29 250.22, recipients of health insurance coverage under s.
30 109.1232 ~~110.1232~~, or any other special pension or relief act
31 shall not be eligible for such payments.

1 Section 88. Subsection (38) of section 121.021,
2 Florida Statutes, is amended to read:

3 121.021 Definitions.--The following words and phrases
4 as used in this chapter have the respective meanings set forth
5 unless a different meaning is plainly required by the context:

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

1 criteria specified in s. 121.0515(2)(a) within 12 calendar
2 months after the date of the layoff or resignation,
3 notwithstanding the fact that such period of layoff or
4 resignation is not creditable service under this chapter. A
5 withdrawal of contributions will constitute a break in
6 service. Continuous service also includes past service
7 purchased under this chapter, provided such service is
8 continuous within this definition and the rules established by
9 the administrator. The administrator may establish
10 administrative rules and procedures for applying this
11 definition to creditable service authorized under this
12 chapter. Any correctional officer, as defined in s. 943.10,
13 whose participation in the state-administered retirement
14 system is terminated due to the transfer of a county detention
15 facility through a contractual agreement with a private entity
16 pursuant to s. 951.062, shall be deemed an employee with
17 continuous service in the Special Risk Class, provided return
18 to employment with the former employer takes place within 3
19 years due to contract termination or the officer is employed
20 by a covered employer in a special risk position within 1 year
21 after his or her initial termination of employment by such
22 transfer of its detention facilities to the private entity.

23 Section 89. Paragraph (b) of subsection (3) of section
24 121.0515, Florida Statutes, is amended to read:

25 121.0515 Special risk membership.--

26 (3) PROCEDURE FOR DESIGNATING.--

27 (b)1. Applying the criteria set forth in this section,
28 the Department of Management Services shall specify which
29 current and newly created classes of positions under the
30 uniform classification plan established pursuant to chapter
31 109 ~~110~~ entitle the incumbents of positions in those classes

1 to membership in the Special Risk Class. Only employees
2 employed in the classes so specified shall be special risk
3 members.

4 2. When a class is not specified by the department as
5 provided in subparagraph 1., the employing agency may petition
6 the State Retirement Commission for approval in accordance
7 with s. 121.23.

8 Section 90. Paragraph (a) of subsection (1) of section
9 121.055, Florida Statutes, is amended to read:

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

15 (1)(a) Participation in the Senior Management Service
16 Class shall be limited to and compulsory for any member of the
17 Florida Retirement System who holds a position in the Senior
18 Management Service of the State of Florida, established by
19 part III of chapter 109 ~~110~~, unless such member elects, within
20 the time specified herein, to participate in the Senior
21 Management Service Optional Annuity Program as established in
22 subsection (6).

23 Section 91. Paragraph (a) of subsection (2) of section
24 121.35, Florida Statutes, is amended to read:

25 121.35 Optional retirement program for the State
26 University System.--

27 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
28 PROGRAM.--

29 (a) Participation in the optional retirement program
30 provided by this section shall be limited to persons who are
31 otherwise eligible for membership in the Florida Retirement

1 System; who are employed or appointed for no less than one
2 academic year; and who are employed in one of the following
3 State University System positions:

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

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

10 3. The Chancellor and the university presidents.

11 Section 92. Subsection (5) of section 215.94, Florida
12 Statutes, is amended to read:

13 215.94 Designation, duties, and responsibilities of
14 functional owners.--

15 (5) The Department of Management Services shall be the
16 functional owner of the Cooperative Personnel Employment
17 Subsystem. The department shall design, implement, and
18 operate the subsystem in accordance with the provisions of ss.
19 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall
20 include, but shall not be limited to, functions for:

21 (a) Maintenance of employee and position data,
22 including funding sources and percentages and salary lapse.
23 The employee data shall include, but not be limited to,
24 information to meet the payroll system requirements of the
25 Department of Banking and Finance and to meet the employee
26 benefit system requirements of the Department of Management
27 Services.

28 (b) Recruitment and examination.

29 (c) Time reporting.

30 (d) Collective bargaining.

31

1 Section 93. Subsection (2) of section 216.011, Florida
2 Statutes, is amended to read:

3 216.011 Definitions.--

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

7 Section 94. Paragraph (a) of subsection (2) of section
8 216.251, Florida Statutes, is amended to read:

9 216.251 Salary appropriations; limitations.--

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

13 1. Within the classification and pay plans provided
14 for in chapter 109 ~~110~~.

15 2. Within the classification and pay plans established
16 by the Board of Trustees for the Florida School for the Deaf
17 and the Blind of the Department of Education and approved by
18 the State Board of Education for academic and academic
19 administrative personnel.

20 3. Within the classification and pay plan approved and
21 administered by the Board of Regents for those positions in
22 the State University System.

23 4. Within the classification and pay plan approved by
24 the President of the Senate and the Speaker of the House of
25 Representatives, as the case may be, for employees of the
26 Legislature.

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

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

1 Section 95. Section 231.381, Florida Statutes, is
2 amended to read:

3 231.381 Transfer of sick leave and annual leave.--In
4 implementing the provisions of ss. 230.23(4)(n) and
5 402.22(1)(d), educational personnel in Department of Children
6 and Family Services residential care facilities who are
7 employed by a district school board may request, and the
8 district school board shall accept, a lump-sum transfer of
9 accumulated sick leave for such personnel to the maximum
10 allowed by policies of the district school board,
11 notwithstanding the provisions of s. 109.122 ~~110.122~~.

12 Educational personnel in Department of Children and Family
13 Services residential care facilities who are employed by a
14 district school board under the provisions of s. 402.22(1)(d)
15 may request, and the district school board shall accept, a
16 lump-sum transfer of accumulated annual leave for each person
17 employed by the district school board in a position in the
18 district eligible to accrue vacation leave under policies of
19 the district school board.

20 Section 96. Paragraph (c) of subsection (1) of section
21 235.217, Florida Statutes, is amended to read:

22 235.217 SMART (Soundly Made, Accountable, Reasonable,
23 and Thrifty) Schools Clearinghouse.--

24 (1)

25 (c) The clearinghouse is assigned to the Department of
26 Management Services for administrative and fiscal
27 accountability purposes, but it shall otherwise function
28 independently of the control and direction of the department,
29 except as otherwise provided in chapters 109 ~~110~~, 255, and 287
30 for agencies of the executive branch.

31

1 Section 97. Paragraph (f) of subsection (3) of section
2 240.209, Florida Statutes, is amended to read:
3 240.209 Board of Regents; powers and duties.--
4 (3) The board shall:
5 (f) Establish and maintain systemwide personnel
6 programs for all State University System employees, including
7 a systemwide personnel classification and pay plan,
8 notwithstanding provisions of law that grant authority to the
9 Department of Management Services over such programs for state
10 employees. The board shall consult with the legislative
11 appropriations committees regarding any major policy changes
12 related to classification and pay which are in conflict with
13 those policies in effect for career service employees with
14 similar job classifications and responsibilities. The board
15 may adopt rules relating to the appointment, employment, and
16 removal of personnel which delegate its authority to the
17 Chancellor or the universities. The board shall submit, in a
18 manner prescribed by law, any reports concerning State
19 University System personnel programs as shall be required of
20 the Department of Management Services for other state
21 employees. The Department of Management Services shall retain
22 authority over State University System employees for programs
23 established in ss. 109.116, 109.123, 109.1232, 109.1234, and
24 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~
25 and in chapters 121, 122, and 238. The board shall adopt rules
26 to provide for a coordinated, efficient systemwide program and
27 shall delegate to the universities authority for implementing
28 the program consistent with these coordinating rules so
29 adopted and applicable collective bargaining agreements. The
30 salary rate controls for positions in budgets under the Board
31

1 of Regents shall separately delineate the general faculty and
2 all other categories.

3 Section 98. Paragraph (a) of subsection (1) of section
4 240.2111, Florida Statutes, is amended to read:

5 240.2111 Employee recognition program.--

6 (1)(a) Notwithstanding the provisions of s. 109.1245
7 ~~110.1245~~, the Board of Regents and each university shall
8 promulgate rules for an employee recognition program which
9 provides for the following components:

10 1. A superior accomplishment component to recognize
11 employees who have contributed outstanding and meritorious
12 service in their fields, including those who have made
13 exceptional contributions to efficiency, economy, or other
14 improvement in State University System operations. No cash
15 award under the superior accomplishment component of the
16 program shall exceed \$1,000, excluding applicable taxes.

17 2. A satisfactory service component to recognize
18 employees who have achieved increments of 5 continuous years
19 of satisfactory service to the Board of Regents, university,
20 or state in appreciation and recognition of such service. No
21 cash award granted under the satisfactory service component
22 shall exceed \$50, excluding applicable taxes.

23 Section 99. Section 240.507, Florida Statutes, is
24 amended to read:

25 240.507 Extension personnel; federal health insurance
26 programs notwithstanding the provisions of s. 109.123
27 ~~110.123~~.--The Institute of Food and Agricultural Sciences at
28 the University of Florida is authorized to pay the employer's
29 share of premiums to the Federal Health Benefits Insurance
30 Program from its appropriated budget for any cooperative
31 extension employee of the institute having both state and

1 federal appointments and participating in the Federal Civil
2 Service Retirement System.

3 Section 100. Subsection (9) of section 241.002,
4 Florida Statutes, is amended to read:

5 241.002 Duties of the Department of Education.--The
6 duties of the Department of Education concerning distance
7 learning include, but are not limited to, the duty to:

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

12

13 Nothing in ss. 241.001-241.004 shall be construed to abrogate,
14 supersede, alter, or amend the powers and duties of any state
15 agency, district school board, community college board of
16 trustees, the State Board of Community Colleges, or the Board
17 of Regents.

18 Section 101. Paragraph (b) of subsection (6) of
19 section 242.331, Florida Statutes, is amended to read:

20 242.331 Florida School for the Deaf and the Blind;
21 board of trustees.--

22 (6) The board of trustees shall:

23 (b) Administer and maintain personnel programs for all
24 employees of the board of trustees and the Florida School for
25 the Deaf and the Blind who shall be state employees, including
26 the personnel classification and pay plan established in
27 accordance with ss. 109.205(2)(d) ~~110.205(2)(d)~~ and
28 216.251(2)(a)2. for academic and academic administrative
29 personnel, the provisions of chapter 109 ~~110~~, and the
30 provisions of law that grant authority to the Department of
31 Management Services over such programs for state employees.

1 Section 102. Subsection (2) of section 260.0125,
2 Florida Statutes, is amended to read:

3 260.0125 Limitation on liability of private landowners
4 whose property is designated as part of the statewide system
5 of greenways and trails.--

6 (2) Any private landowner who consents to designation
7 of his or her land as part of the statewide system of
8 greenways and trails pursuant to s. 260.016(2)(d) without
9 compensation shall be considered a volunteer, as defined in s.
10 109.501 ~~110.501~~, and shall be covered by state liability
11 protection pursuant to s. 768.28, including s. 768.28(9).

12 Section 103. Paragraph (a) of subsection (4) of
13 section 281.02, Florida Statutes, is amended to read:

14 281.02 Powers and duties of the Department of
15 Management Services, Florida Capitol Police.--The Department
16 of Management Services, Florida Capitol Police, has the
17 following powers and duties:

18 (4) To employ:

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

24 Section 104. Section 287.175, Florida Statutes, is
25 amended to read:

26 287.175 Penalties.--A violation of this part or a rule
27 adopted hereunder, pursuant to applicable constitutional and
28 statutory procedures, constitutes misuse of public position as
29 defined in s. 112.313(6), and is punishable as provided in s.
30 112.317. The Comptroller shall report incidents of suspected
31 misuse to the Commission on Ethics, and the commission shall

1 investigate possible violations of this part or rules adopted
2 hereunder when reported by the Comptroller, notwithstanding
3 the provisions of s. 112.324. Any violation of this part or a
4 rule adopted hereunder shall be presumed to have been
5 committed with wrongful intent, but such presumption is
6 rebuttable. Nothing in this section is intended to deny
7 rights provided to career service employees by s. 109.227
8 ~~110.227~~.

9 Section 105. Subsection (2) of section 288.708,
10 Florida Statutes, is amended to read:

11 288.708 Executive director; employees.--

12 (2) The executive director and all employees of the
13 board shall be exempt from the provisions of part II of
14 chapter 109 ~~110~~, and the executive director shall be subject
15 to the provisions of part IV of chapter 109 ~~110~~.

16 Section 106. Paragraph (a) of subsection (4) of
17 section 295.07, Florida Statutes, is amended to read:

18 295.07 Preference in appointment and retention.--

19 (4) The following positions are exempt from this
20 section:

21 (a) Those positions that are exempt from the state
22 Career Service System under s. 109.205(2) ~~110.205(2)~~; however,
23 all positions under the University Support Personnel System of
24 the State University System as well as all Career Service
25 System positions under the Florida Community College System
26 and the School for the Deaf and the Blind are included.

27 Section 107. Subsection (3) and paragraph (b) of
28 subsection (4) of section 296.04, Florida Statutes, are
29 amended to read:

30 296.04 Administrator; duties and qualifications;
31 responsibilities.--

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

12 (4)

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

17 Section 108. Subsection (1) and paragraph (b) of
18 subsection (4) of section 296.34, Florida Statutes, are
19 amended to read:

20 296.34 Administrator; qualifications, duties, and
21 responsibilities.--

22 (1) The director shall appoint an administrator of the
23 home who shall be the chief executive of the home. The
24 position shall be assigned to the Selected Exempt Service
25 under part V of chapter 109 ~~110~~. The director shall give
26 preference in appointment as provided in ss. 295.07 and
27 295.085 to applicants for the position of administrator.

28 (4)

29 (b) All employees who fill authorized and established
30 positions appropriated for the home shall be state employees.

31

1 The department shall classify such employees in the manner
2 prescribed in chapter 109 ~~110~~.

3 Section 109. Subsection (5) of section 311.07, Florida
4 Statutes, is amended to read:

5 311.07 Florida seaport transportation and economic
6 development funding.--

7 (5) Any port which receives funding under the program
8 shall institute procedures to ensure that jobs created as a
9 result of the state funding shall be subject to equal
10 opportunity hiring practices in the manner provided in s.
11 109.112 ~~110.112~~.

12 Section 110. Paragraph (c) of subsection (10) of
13 section 339.175, Florida Statutes, is amended to read:

14 339.175 Metropolitan planning organization.--It is the
15 intent of the Legislature to encourage and promote the safe
16 and efficient management, operation, and development of
17 surface transportation systems that will serve the mobility
18 needs of people and freight within and through urbanized areas
19 of this state while minimizing transportation-related fuel
20 consumption and air pollution. To accomplish these objectives,
21 metropolitan planning organizations, referred to in this
22 section as M.P.O.'s, shall develop, in cooperation with the
23 state and public transit operators, transportation plans and
24 programs for metropolitan areas. The plans and programs for
25 each metropolitan area must provide for the development and
26 integrated management and operation of transportation systems
27 and facilities, including pedestrian walkways and bicycle
28 transportation facilities that will function as an intermodal
29 transportation system for the metropolitan area, based upon
30 the prevailing principles provided in s. 334.046(1). The
31 process for developing such plans and programs shall provide

1 for consideration of all modes of transportation and shall be
2 continuing, cooperative, and comprehensive, to the degree
3 appropriate, based on the complexity of the transportation
4 problems to be addressed.

5 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
6 COUNCIL.--

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

9 1. Enter into contracts with individuals, private
10 corporations, and public agencies.

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

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

15 4. Establish bylaws and adopt rules pursuant to ss.
16 120.536(1) and 120.54 to implement provisions of law
17 conferring powers or duties upon it.

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

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

26 7. Employ an executive director and such other staff
27 as necessary to perform adequately the functions of the
28 council, within budgetary limitations. The executive director
29 and staff are exempt from part II of chapter 109 ~~110~~ and serve
30 at the direction and control of the council. The council is
31 assigned to the Office of the Secretary of the Department of

1 Transportation for fiscal and accountability purposes, but it
2 shall otherwise function independently of the control and
3 direction of the department.

4 8. Adopt an agency strategic plan that provides the
5 priority directions the agency will take to carry out its
6 mission within the context of the state comprehensive plan and
7 any other statutory mandates and directions given to the
8 agency.

9 Section 111. Subsection (4) of section 343.74, Florida
10 Statutes, is amended to read:

11 343.74 Powers and duties.--

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

16 Section 112. Paragraph (e) of subsection (3) of
17 section 381.85, Florida Statutes, is amended to read:

18 381.85 Biomedical and social research.--

19 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL
20 RESEARCH.--

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

25 Section 113. Section 393.0657, Florida Statutes, is
26 amended to read:

27 393.0657 Persons not required to be refingerprinted or
28 rescreened.--Any provision of law to the contrary
29 notwithstanding, human resource personnel who have been
30 fingerprinted or screened pursuant to chapters 393, 394, 397,
31 402, and 409, and teachers who have been fingerprinted

1 pursuant to chapter 231, who have not been unemployed for more
2 than 90 days thereafter, and who under the penalty of perjury
3 attest to the completion of such fingerprinting or screening
4 and to compliance with the provisions of this section and the
5 standards for good moral character as contained in such
6 provisions as ss. 109.1127(3)~~110.1127(3)~~, 393.0655(1),
7 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be
8 required to be refingerprinted or rescreened in order to
9 comply with any direct service provider screening or
10 fingerprinting requirements.

11 Section 114. Subsection (3) of section 400.19, Florida
12 Statutes, is amended to read:

13 400.19 Right of entry and inspection.--

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

31

1 Section 115. Subsection (3) of section 400.953,
2 Florida Statutes, is amended to read:

3 400.953 Background screening of home medical equipment
4 provider personnel.--The agency shall require employment
5 screening as provided in chapter 435, using the level 1
6 standards for screening set forth in that chapter, for home
7 medical equipment provider personnel.

8 (3) Proof of compliance with the screening
9 requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.
10 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.
11 464.008, or s. 985.407 or this part must be accepted in lieu
12 of the requirements of this section if the person has been
13 continuously employed in the same type of occupation for which
14 he or she is seeking employment without a breach in service
15 that exceeds 180 days, the proof of compliance is not more
16 than 2 years old, and the person has been screened by the
17 Department of Law Enforcement. An employer or contractor shall
18 directly provide proof of compliance to another employer or
19 contractor, and a potential employer or contractor may not
20 accept any proof of compliance directly from the person
21 requiring screening. Proof of compliance with the screening
22 requirements of this section shall be provided, upon request,
23 to the person screened by the home medical equipment provider.

24 Section 116. Section 402.3057, Florida Statutes, is
25 amended to read:

26 402.3057 Persons not required to be refingerprinted or
27 rescreened.--Any provision of law to the contrary
28 notwithstanding, human resource personnel who have been
29 fingerprinted or screened pursuant to chapters 393, 394, 397,
30 402, and 409, and teachers and noninstructional personnel who
31 have been fingerprinted pursuant to chapter 231, who have not

1 been unemployed for more than 90 days thereafter, and who
2 under the penalty of perjury attest to the completion of such
3 fingerprinting or screening and to compliance with the
4 provisions of this section and the standards for good moral
5 character as contained in such provisions as ss. 109.1127(3)
6 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
7 409.175(4), shall not be required to be refingerprinted or
8 rescreened in order to comply with any caretaker screening or
9 fingerprinting requirements.

10 Section 117. Subsection (4) of section 402.55, Florida
11 Statutes, is amended to read:

12 402.55 Management fellows program.--

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

16 Section 118. Subsection (2) of section 402.731,
17 Florida Statutes, is amended to read:

18 402.731 Department of Children and Family Services
19 certification programs for employees and service providers;
20 employment provisions for transition to community-based
21 care.--

22 (2) The department shall develop and implement
23 employment programs to attract and retain competent staff to
24 support and facilitate the transition to privatized
25 community-based care. Such employment programs shall include
26 lump-sum bonuses, salary incentives, relocation allowances, or
27 severance pay. The department shall also contract for the
28 delivery or administration of outplacement services. The
29 department shall establish time-limited exempt positions as
30 provided in s. 109.205(2)(h) ~~110.205(2)(h)~~, in accordance with
31 the authority provided in s. 216.262(1)(c)1. Employees

1 appointed to fill such exempt positions shall have the same
2 salaries and benefits as career service employees.

3 Section 119. Section 409.1757, Florida Statutes, is
4 amended to read:

5 409.1757 Persons not required to be refingerprinted or
6 rescreened.--Any provision of law to the contrary
7 notwithstanding, human resource personnel who have been
8 fingerprinted or screened pursuant to chapters 393, 394, 397,
9 402, and this chapter, and teachers who have been
10 fingerprinted pursuant to chapter 231, who have not been
11 unemployed for more than 90 days thereafter, and who under the
12 penalty of perjury attest to the completion of such
13 fingerprinting or screening and to compliance with the
14 provisions of this section and the standards for good moral
15 character as contained in such provisions as ss. 109.1127(3)
16 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
17 409.175(4), shall not be required to be refingerprinted or
18 rescreened in order to comply with any caretaker screening or
19 fingerprinting requirements.

20 Section 120. Paragraph (o) of subsection (1) of
21 section 440.102, Florida Statutes, is amended to read:

22 440.102 Drug-free workplace program requirements.--The
23 following provisions apply to a drug-free workplace program
24 implemented pursuant to law or to rules adopted by the Agency
25 for Health Care Administration:

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

28 (o) "Safety-sensitive position" means, with respect to
29 a public employer, a position in which a drug impairment
30 constitutes an immediate and direct threat to public health or
31 safety, such as a position that requires the employee to carry

1 a firearm, perform life-threatening procedures, work with
2 confidential information or documents pertaining to criminal
3 investigations, or work with controlled substances; a position
4 subject to s. 109.1127 ~~110.1127~~; or a position in which a
5 momentary lapse in attention could result in injury or death
6 to another person.

7 Section 121. Paragraph (a) of subsection (3) of
8 section 440.4416, Florida Statutes, is amended to read:

9 440.4416 Workers' Compensation Oversight Board.--

10 (3) EXECUTIVE DIRECTOR; EXPENSES.--

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

18 Section 122. Subsection (4) of section 443.171,
19 Florida Statutes, is amended to read:

20 443.171 Division and commission; powers and duties;
21 rules; advisory council; records and reports; proceedings;
22 state-federal cooperation.--

23 (4) PERSONNEL.--Subject to chapter 109 ~~110~~ and the
24 other provisions of this chapter, the division is authorized
25 to appoint, fix the compensation of, and prescribe the duties
26 and powers of such employees, accountants, attorneys, experts,
27 and other persons as may be necessary in the performance of
28 its duties under this chapter. The division may delegate to
29 any such person such power and authority as it deems
30 reasonable and proper for the effective administration of this
31 chapter and may in its discretion bond any person handling

1 moneys or signing checks hereunder; the cost of such bonds
2 shall be paid from the Employment Security Administration
3 Trust Fund.

4 Section 123. Paragraph (a) of subsection (9) of
5 section 447.207, Florida Statutes, is amended to read:

6 447.207 Commission; powers and duties.--

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

10 (a) Section 109.124 ~~110.124~~, relating to termination
11 or transfer of State Career Service System employees aged 65
12 or older.

13 Section 124. Paragraph (a) of subsection (2) of
14 section 456.048, Florida Statutes, is amended to read:

15 456.048 Financial responsibility requirements for
16 certain health care practitioners.--

17 (2) The board or department may grant exemptions upon
18 application by practitioners meeting any of the following
19 criteria:

20 (a) Any person licensed under chapter 457, chapter
21 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who
22 practices exclusively as an officer, employee, or agent of the
23 Federal Government or of the state or its agencies or its
24 subdivisions. For the purposes of this subsection, an agent
25 of the state, its agencies, or its subdivisions is a person
26 who is eligible for coverage under any self-insurance or
27 insurance program authorized by the provisions of s.
28 768.28(15) or who is a volunteer under s. 109.501(1)
29 ~~110.501(1)~~.

30 Section 125. Subsection (3) of section 471.038,
31 Florida Statutes, is amended to read:

1 471.038 Florida Engineers Management Corporation.--
2 (3) The Florida Engineers Management Corporation is
3 created to provide administrative, investigative, and
4 prosecutorial services to the board in accordance with the
5 provisions of chapter 455 and this chapter. The management
6 corporation may hire staff as necessary to carry out its
7 functions. Such staff are not public employees for the
8 purposes of chapter 109 ~~110~~ or chapter 112, except that the
9 board of directors and the staff are subject to the provisions
10 of s. 112.061. The provisions of s. 768.28 apply to the
11 management corporation, which is deemed to be a corporation
12 primarily acting as an instrumentality of the state, but which
13 is not an agency within the meaning of s. 20.03(11). The
14 management corporation shall:
15 (a) Be a Florida corporation not for profit,
16 incorporated under the provisions of chapter 617.
17 (b) Provide administrative, investigative, and
18 prosecutorial services to the board in accordance with the
19 provisions of chapter 455, this chapter, and the contract
20 required by this section.
21 (c) Receive, hold, and administer property and make
22 only prudent expenditures directly related to the
23 responsibilities of the board, and in accordance with the
24 contract required by this section.
25 (d) Be approved by the board and the department to
26 operate for the benefit of the board and in the best interest
27 of the state.
28 (e) Operate under a fiscal year that begins on July 1
29 of each year and ends on June 30 of the following year.
30 (f) Have a seven-member board of directors, five of
31 whom are to be appointed by the board and must be registrants

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

15 (g) Select its officers in accordance with its bylaws.
16 The members of the board of directors may be removed by the
17 board, with the concurrence of the department, for the same
18 reasons that a board member may be removed.

19 (h) Use a portion of the interest derived from the
20 management corporation account to offset the costs associated
21 with the use of credit cards for payment of fees by applicants
22 or licensees.

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

26 1. Approval of the articles of incorporation and
27 bylaws of the management corporation by the department and the
28 board.

29 2. Submission by the management corporation of an
30 annual budget that complies with board rules for approval by
31 the board and the department.

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

9 4. Employment by the department of a contract
10 administrator to actively supervise the administrative,
11 investigative, and prosecutorial activities of the management
12 corporation to ensure compliance with the contract and the
13 provisions of chapter 455 and this chapter and to act as a
14 liaison for the department, the board, and the management
15 corporation to ensure the effective operation of the
16 management corporation.

17 5. Funding of the management corporation through
18 appropriations allocated to the regulation of professional
19 engineers from the Professional Regulation Trust Fund.

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

28 7. The securing and maintaining by the management
29 corporation, during the term of the contract and for all acts
30 performed during the term of the contract, of all liability
31 insurance coverages in an amount to be approved by the

1 department to defend, indemnify, and hold harmless the
2 management corporation and its officers and employees, the
3 department and its employees, and the state against all claims
4 arising from state and federal laws. Such insurance coverage
5 must be with insurers qualified and doing business in the
6 state. The management corporation must provide proof of
7 insurance to the department. The department and its employees
8 and the state are exempt from and are not liable for any sum
9 of money which represents a deductible, which sums shall be
10 the sole responsibility of the management corporation.
11 Violation of this subparagraph shall be grounds for
12 terminating the contract.

13 8. Payment by the management corporation, out of its
14 allocated budget, to the department of all costs of
15 representation by the board counsel, including salary and
16 benefits, travel, and any other compensation traditionally
17 paid by the department to other board counsels.

18 9. Payment by the management corporation, out of its
19 allocated budget, to the department of all costs incurred by
20 the management corporation or the board for the Division of
21 Administrative Hearings of the Department of Management
22 Services and any other cost for utilization of these state
23 services.

24 10. Payment by the management corporation, out of its
25 allocated budget, to the department of all costs associated
26 with the contract administrator of the department, including
27 salary and benefits, travel, and other related costs
28 traditionally paid to state employees.

29 (j) Provide for an annual financial and compliance
30 audit of its financial accounts and records by an independent
31 certified public accountant in accordance with generally

1 | accepted auditing standards. The annual audit report shall
2 | include a detailed supplemental schedule of expenditures for
3 | each expenditure category and a management letter. The annual
4 | audit report must be submitted to the board, the department,
5 | and the Auditor General for review. The Auditor General may,
6 | pursuant to his or her own authority or at the direction of
7 | the Legislative Auditing Committee, conduct an audit of the
8 | corporation.

9 | (k) Provide for persons charged with the
10 | responsibility of receiving and depositing fee and fine
11 | revenues to have a faithful performance bond in such an amount
12 | and according to such terms as shall be determined in the
13 | contract.

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

28 | (m) Develop, with the department, performance
29 | standards and measurable outcomes for the board to adopt by
30 | rule in order to facilitate efficient and cost-effective
31 | regulation.

1 Section 126. Subsection (3) of section 509.036,
2 Florida Statutes, is amended to read:

3 509.036 Public food service inspector
4 standardization.--

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

10 Section 127. Effective July 1, 2001, subsection (3) of
11 section 509.036, Florida Statutes, as amended by this act, is
12 amended to read:

13 509.036 Public food service inspector
14 standardization.--

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

20 Section 128. Effecive January 1, 2002, subsection (3)
21 of section 509.036, Florida Statutes, as amended by this act,
22 is amended to read:

23 509.036 Public food service inspector
24 standardization.--

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

30 Section 129. Subsection (1) of section 570.073,
31 Florida Statutes, is amended to read:

1 570.073 Department of Agriculture and Consumer
2 Services, law enforcement officers.--

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

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

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

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

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

20 (e) Enforcement of a marketing order.

21 (f) Protection of consumers.

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

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

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

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

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

5 570.074 Department of Agriculture and Consumer
6 Services; water policy coordination.--The commissioner may
7 create an Office of Water Coordination under the supervision
8 of a senior manager exempt under s. 109.205 ~~110.205~~ in the
9 Senior Management Service. The commissioner may designate the
10 bureaus and positions in the various organizational divisions
11 of the department that report to this office relating to any
12 matter over which the department has jurisdiction in matters
13 relating to water policy affecting agriculture, application of
14 such policies, and coordination of such matters with state and
15 federal agencies.

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

18 624.307 General powers; duties.--

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

30 Section 132. Subsection (4) of section 627.0623,
31 Florida Statutes, is amended to read:

1 627.0623 Restrictions on expenditures and
2 solicitations of insurers and affiliates.--

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

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

20 627.6488 Florida Comprehensive Health Association.--

21 (4) The association shall:

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

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

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

15 627.649 Administrator.--

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

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

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

29 627.6498 Minimum benefits coverage; exclusions;
30 premiums; deductibles.--

31 (2) BENEFITS.--

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

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

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

26 627.6617 Coverage for home health care services.--

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

31

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

3 655.019 Campaign contributions; limitations.--

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

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

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

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

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

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

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

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

1 4. Is a candidate for admission to The Florida Bar;

2 5. Is seeking to be employed or licensed by or to
3 contract with the Department of Children and Family Services
4 or the Department of Juvenile Justice or to be employed or
5 used by such contractor or licensee in a sensitive position
6 having direct contact with children, the developmentally
7 disabled, the aged, or the elderly as provided in s.
8 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
9 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
10 415.102(4), s. 985.407, or chapter 400; or

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

16 Section 139. Paragraph (a) of subsection (4) of
17 section 943.059, Florida Statutes, is amended to read:

18 943.059 Court-ordered sealing of criminal history
19 records.--The courts of this state shall continue to have
20 jurisdiction over their own procedures, including the
21 maintenance, sealing, and correction of judicial records
22 containing criminal history information to the extent such
23 procedures are not inconsistent with the conditions,
24 responsibilities, and duties established by this section. Any
25 court of competent jurisdiction may order a criminal justice
26 agency to seal the criminal history record of a minor or an
27 adult who complies with the requirements of this section. The
28 court shall not order a criminal justice agency to seal a
29 criminal history record until the person seeking to seal a
30 criminal history record has applied for and received a
31 certificate of eligibility for sealing pursuant to subsection

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

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

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

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

31

1 6. Is seeking to be employed or licensed by the Office
2 of Teacher Education, Certification, Staff Development, and
3 Professional Practices of the Department of Education, any
4 district school board, or any local governmental entity which
5 licenses child care facilities.

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

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

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

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

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

18 (3)

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

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

28 945.043 Department-operated day care services.--

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

31

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

3 957.03 Correctional Privatization Commission.--

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

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

21 985.04 Oaths; records; confidential information.--

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

1 to departmental rule; however, current criminal history
2 information must be obtained from the Department of Law
3 Enforcement in accordance with s. 943.053. The information
4 shall be released to those persons specified in the above
5 cited sections for the purposes of complying with those
6 sections. The court may punish by contempt any person who
7 releases or uses the records for any unauthorized purpose.

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

10 985.05 Court records.--

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

14 (e) Records of proceedings under this part may be used
15 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,
16 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
17 409.176, and 985.407.

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

20 985.4045 Sexual misconduct prohibited; reporting
21 required; penalties.--

22 (1)

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

29 Section 147. Paragraph (i) is added to subsection (2)
30 of section 20.22, Florida Statutes, to read:

31

1 20.22 Department of Management Services.--There is
2 created a Department of Management Services.

3 (2) The following divisions and programs within the
4 Department of Management Services are established:

5 (i) Division of Human Resource Management.

6 Section 148. Effective January 1, 2002, section
7 447.201, Florida Statutes, is amended to read:

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

20 (1) Granting to public employees the right of
21 organization and representation;

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

25 (3) Creating a voluntary binding arbitration procedure
26 ~~Public Employees Relations Commission~~ to assist in resolving
27 disputes between public employees and public employers; and

28 (4) Recognizing the constitutional prohibition against
29 strikes by public employees and providing remedies for
30 violations of such prohibition.

31

1 Section 149. Effective July 1, 2001, subsections (1)
2 and (2), paragraph (d) of subsection (3), and subsections (4),
3 (8), (12), and (17) of section 447.203, Florida Statutes, are
4 amended to read:

5 447.203 Definitions.--As used in this part:

6 (1)(a) "Division" means the Division of Human Resource
7 Management of the Department of Management Services.

8 (b) "Commission" means the Public Employees Relations
9 Commission created by s. 447.205.

10 (2) "Public employer" or "employer" means the state or
11 any county, municipality, or special district or any
12 subdivision or agency thereof which the division ~~commission~~
13 determines has sufficient legal distinctiveness properly to
14 carry out the functions of a public employer. With respect to
15 all public employees determined by the division ~~commission~~ as
16 properly belonging to a statewide bargaining unit composed of
17 State Career Service System employees or Selected Professional
18 Service employees, the Governor shall be deemed to be the
19 public employer; and the Board of Regents shall be deemed to
20 be the public employer with respect to all public employees
21 within the State University System as provided in s.

22 240.209(3)(f), except that such employees shall have the
23 right, in elections to be conducted at each university by the
24 division ~~commission~~ pursuant to its rules, to elect not to
25 participate in collective bargaining. In the event that a
26 majority of such voting employees at any university elect not
27 to participate in collective bargaining, they shall be removed
28 from the applicable Board of Regents bargaining unit. If,
29 thereafter, by election conducted by the division ~~commission~~
30 pursuant to its rules, a majority of such voting employees
31 elect to participate in collective bargaining, they shall be

1 included again in the applicable Board of Regents bargaining
2 unit for such purpose. The board of trustees of a community
3 college shall be deemed to be the public employer with respect
4 to all employees of the community college. The district school
5 board shall be deemed to be the public employer with respect
6 to all employees of the school district. The Board of
7 Trustees of the Florida School for the Deaf and the Blind
8 shall be deemed to be the public employer with respect to the
9 academic and academic administrative personnel of the Florida
10 School for the Deaf and the Blind. The Governor shall be
11 deemed to be the public employer with respect to all employees
12 in the Correctional Education Program of the Department of
13 Corrections established pursuant to s. 944.801.

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

16 (d) Those persons who are designated by the division
17 ~~commission~~ as managerial or confidential employees pursuant to
18 criteria contained herein.

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

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

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

26 2. They may reasonably be required on behalf of the
27 employer to assist in the preparation for the conduct of
28 collective bargaining negotiations.

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

31

1 4. They have a significant role in personnel
2 administration.

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

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

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

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

18
19 However, in determining whether an individual is a managerial
20 employee pursuant to either paragraph (a) or paragraph (b),
21 above, the division ~~commission~~ may consider historic
22 relationships of the employee to the public employer and to
23 coemployees.

24 (8) "Bargaining unit" means either that unit
25 determined by the division ~~commission~~, that unit determined
26 through local regulations promulgated pursuant to s. 447.603,
27 or that unit determined by the public employer and the public
28 employee organization and approved by the division ~~commission~~
29 to be appropriate for the purposes of collective bargaining.
30 However, no bargaining unit shall be defined as appropriate
31 which includes employees of two employers that are not

1 departments or divisions of the state, a county, a
2 municipality, or other political entity.

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

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

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

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

27 (c) Failure to discuss bargainable issues.

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

31

1 (e) Refusing to negotiate because of an unwanted
2 person on the opposing negotiating team.

3 (f) Negotiating directly with employees rather than
4 with their certified bargaining agent.

5 (g) Refusing to reduce a total agreement to writing.

6 Section 150. Effective June 30, 2002, paragraph (b) of
7 subsection (1) and paragraph (h) of subsection (3) of section
8 447.203, Florida Statutes, and section 447.205, Florida
9 Statutes, are repealed.

10 Section 151. Effective July 1, 2001, subsections (1),
11 (2), (3), (4), (5), (6), and (7) of section 447.207, Florida
12 Statutes, are amended, and, effective January 1, 2002,
13 subsections (8), (9), (10), and (11) of said section, as
14 amended by this act, are amended, to read:

15 447.207 Division of Human Resource Management
16 ~~Commission~~; powers and duties.--

17 (1) The Division of Human Resource Management
18 ~~commission~~ shall, in accordance with chapter 120, adopt,
19 promulgate, amend, or rescind such rules and regulations as it
20 deems necessary and administratively feasible to carry out the
21 provisions of this part.

22 (2) To accomplish the objectives and carry out the
23 duties prescribed by this part, the division ~~commission~~ may
24 preserve and enforce order during any proceeding; issue
25 subpoenas for, administer oaths or affirmations to, and compel
26 the attendance and testimony of witnesses; or issue subpoenas
27 for, and compel the production of, books, papers, records,
28 documents, and other evidence. However, in the absence of
29 extraordinary circumstances, no subpoena shall issue which
30 commands the attendance or testimony of any division
31 ~~commissioner or any commission~~ employee at a division

1 ~~commission~~ proceeding with respect to the performance of
2 official or assigned duties, or the production of books,
3 papers, records, or documents of the division ~~commission~~ which
4 have been prepared during the performance of such duties.

5 (3) If any person:

6 (a) Misbehaves during a proceeding or so near the
7 place thereof as to obstruct the same;

8 (b) Neglects to produce, after having been ordered to
9 do so, any pertinent book, paper, record, or document; or

10 (c) Refuses or fails to appear after having been
11 subpoenaed or, upon appearing, refuses to take oath or
12 affirmation as a witness or, after having taken the oath,
13 refuses to be examined according to law,
14

15 the division ~~commission~~ shall certify the facts to the circuit
16 court having jurisdiction in the county where the proceeding
17 is taking place, which shall thereupon in a summary manner
18 hear the evidence as to the acts complained of and, if the
19 evidence so warrants, punish such person in the same manner
20 and to the same extent as for a contempt committed before the
21 court or commit such person upon the same conditions as if the
22 doing of the forbidden act had occurred with reference to the
23 process or order of, or in the presence of, the court.

24 (4) Any subpoena, notice of hearing, or other process
25 or notice of the division ~~commission~~ issued under the
26 provisions of this part shall be served personally or by
27 certified mail. A return made and verified by the individual
28 making such service and setting forth the manner of such
29 service is proof of service, and a returned post office
30 receipt, when certified mail is used, is proof of service.
31 All process of any court to which application may be made

1 under the provisions of this part shall be served in the
2 county wherein the persons required to be served reside or may
3 be found.

4 (5) The division ~~commission~~ shall adopt rules as to
5 the qualifications of persons who may serve as mediators and
6 special masters and shall maintain lists of such qualified
7 persons who are not employees of the division ~~commission~~. The
8 ~~commission may initiate dispute resolution procedures by~~
9 ~~special masters, pursuant to the provisions of this part.~~

10 (6) Pursuant to its established procedures, the
11 division ~~commission~~ shall resolve questions and controversies
12 concerning claims for recognition as the bargaining agent for
13 a bargaining unit, determine or approve units appropriate for
14 purposes of collective bargaining, ~~expeditiously process~~
15 ~~charges of unfair labor practices and violations of s. 447.505~~
16 ~~by public employees,~~ and resolve such other questions and
17 controversies as it may be authorized herein to undertake.
18 The petitioner, charging party, respondent, and any
19 intervenors shall be the adversary parties before the division
20 ~~commission~~ in any adjudicatory proceeding conducted pursuant
21 to this part. Any division ~~commission~~ statement of general
22 applicability that implements, interprets, or prescribes law
23 or policy, made in the course of adjudicating a case pursuant
24 to s. 447.307 ~~or s. 447.503~~ shall not constitute a rule within
25 the meaning of s. 120.52.

26 (7) ~~The commission shall provide by rule a procedure~~
27 ~~for the filing and prompt disposition of petitions for a~~
28 ~~declaratory statement as to the applicability of any statutory~~
29 ~~provision or any rule or order of the commission. Such rule~~
30 ~~or rules shall provide for, but not be limited to, an~~
31 ~~expeditious disposition of petitions posing questions relating~~

1 ~~to potential unfair labor practices. Commission disposition~~
2 ~~of a petition shall be final agency action and shall not~~
3 ~~constitute a rule as defined in s. 120.52.~~

4 (7)(8) The division shall provide for voluntary
5 binding arbitration as provided in s. 109.240 with regard to a
6 ~~Pursuant to s. 447.208, the commission or its designated agent~~
7 ~~shall hear appeals arising out of any suspension, reduction in~~
8 ~~pay or withholding of bonuses, transfer, layoff, demotion, or~~
9 ~~dismissal of any permanent employee in the State Career~~
10 ~~Service System. Written notice of a request for voluntary~~
11 ~~binding arbitration any such appeal shall be filed with the~~
12 ~~division commission within 14 calendar days after the date on~~
13 ~~which the notice of suspension, reduction in pay, transfer,~~
14 ~~layoff, demotion, or dismissal is received by the employee.~~

15 (8)(9) The division shall provide for voluntary
16 binding arbitration as provided in s. 109.240 and, pursuant
17 thereto, shall Pursuant to s. 447.208, the commission or its
18 ~~designated agent shall hear appeals, and enter such orders as~~
19 ~~it deems appropriate, arising out of:~~

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

23 (b) Section 112.044(4), relating to age
24 discrimination.

25 (c) Section 295.11, relating to reasons for not
26 employing a preferred veteran applicant.

27 (9)(10) Voluntary binding arbitration conducted
28 ~~Appeals to the commission pursuant to subsection(7)(8)or~~
29 ~~subsection(8)(9)shall be the exclusive administrative~~
30 ~~review of such actions, notwithstanding the provisions of~~
31 ~~chapter 120. However, nothing in this subsection shall affect~~

1 an employee's rights pursuant to the grievance procedures set
2 forth in s. 447.401 or s. 447.503.

3 (10)(11) Decisions issued by the division commission
4 pursuant to subsection(7)(8) or subsection(8)(9) shall be
5 final agency action ~~which shall be reviewable pursuant to s.~~
6 ~~447.504.~~

7 Section 152. Notwithstanding the amendments to s.
8 447.207, Florida Statutes, by this act, the authority granted
9 to the Public Employees Relations Commission by s. 407.207(1),
10 (2), (3), and (4), Florida Statutes 2000, shall continue to
11 apply to the commission until June 30, 2002.

12 Section 153. Effective July 1, 2001, section 447.208,
13 Florida Statutes, is amended to read:

14 447.208 Procedure for ~~with respect to~~ certain appeals
15 under s. 447.207.--

16 (1) Any person filing an appeal pursuant to subsection
17 (7)(8) or subsection(8)(9) of s. 447.207 shall be entitled
18 to a hearing ~~pursuant to subsections (4) and (5) of s. 447.503~~
19 ~~and~~ in accordance with chapter 120; however, the hearing shall
20 be conducted within 30 days of the filing of an appeal with
21 the commission, unless an extension of time is granted by the
22 commission for good cause. Discovery may be granted only upon
23 a showing of extraordinary circumstances. A party requesting
24 discovery shall demonstrate a substantial need for the
25 information requested and an inability to obtain relevant
26 information by other means. To the extent that chapter 120 is
27 inconsistent with these provisions, the procedures contained
28 in this section shall govern.

29 (2) This section does not prohibit any person from
30 representing himself or herself in proceedings before the
31 commission or from being represented by legal counsel or by

1 any individual who qualifies as a representative pursuant to
2 rules promulgated and adopted by the commission.

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

6 (a) For alleged adverse agency action against an
7 employee occurring on or after July 1, 2001, the burden of
8 proof shall be on the employee requesting the appeal to
9 establish by a preponderance of the evidence that the agency
10 head abused his or her discretion in demoting, suspending, or
11 dismissing the employee and that no reasonable cause existed
12 for the alleged adverse action taken by the agency.

13 (b)(a) Upon a finding that the adversely affected
14 employee was unable to establish that the agency head abused
15 his or her discretion and was unable to establish that no
16 reasonable just cause existed for the demotion, suspension, or
17 dismissal, the commission shall affirm the demotion,
18 suspension, or dismissal.

19 (c)(b) Upon a finding that the adversely affected
20 employee established that the agency head abused his or her
21 discretion and that no reasonable just cause existed did not
22 exist for the demotion, suspension, or dismissal, the
23 commission may order the reinstatement of the employee, with
24 or without back pay.

25 ~~(c) Upon a finding that just cause for disciplinary~~
26 ~~action existed, but did not justify the severity of the action~~
27 ~~taken, the commission may, in its limited discretion, reduce~~
28 ~~the penalty.~~

29 ~~(d) The commission is limited in its discretionary~~
30 ~~reduction of dismissals and suspensions to consider only the~~
31 ~~following circumstances:~~

1 1. ~~The seriousness of the conduct as it relates to the~~
2 ~~employee's duties and responsibilities.~~
3 2. ~~Action taken with respect to similar conduct by~~
4 ~~other employees.~~
5 3. ~~The previous employment record and disciplinary~~
6 ~~record of the employee.~~
7 4. ~~Extraordinary circumstances beyond the employee's~~
8 ~~control which temporarily diminished the employee's capacity~~
9 ~~to effectively perform his or her duties or which~~
10 ~~substantially contributed to the violation for which~~
11 ~~punishment is being considered.~~
12
13 ~~The agency may present evidence to refute the existence of~~
14 ~~these circumstances.~~
15 (d)(e) Any order of the commission issued pursuant to
16 this subsection may include back pay, if applicable, and an
17 amount, to be determined by the commission and paid by the
18 agency, for reasonable attorney's fees, witness fees, and
19 other out-of-pocket expenses incurred during the prosecution
20 of an appeal against an agency in which the commission finds
21 sustains the employee met his or her burden of proof by
22 establishing that the agency head abused his or her discretion
23 and that no reasonable cause existed for the employee's
24 demotion, suspension, or dismissal. In determining the amount
25 of an attorney's fee, the commission shall consider only the
26 number of hours reasonably spent on the appeal, comparing the
27 number of hours spent on similar Career Service System appeals
28 and the reasonable hourly rate charged in the geographic area
29 for similar appeals, but not including litigation over the
30 amount of the attorney's fee. ~~This paragraph applies to future~~
31 ~~and pending cases.~~

1 Section 154. Effective January 1, 2002, sections
2 447.208 and 447.2085, Florida Statutes, are repealed.

3 Section 155. Effective July 1, 2001, subsection (5) of
4 section 447.301, Florida Statutes, is amended to read:

5 447.301 Public employees' rights; organization and
6 representation.--

7 (5) In negotiations over the terms and conditions of
8 service and other matters affecting the working environment of
9 employees, or the learning environment of students, in
10 institutions of higher education, one student representative
11 selected by the council of student body presidents may, at his
12 or her discretion, be present at all negotiating sessions
13 which take place between the Board of Regents and the
14 bargaining agent for an employee bargaining unit. In the case
15 of community colleges, the student government association of
16 each college shall establish procedures for the selection of,
17 and shall select, a student representative to be present, at
18 his or her discretion, at negotiations between the bargaining
19 agent of the employees and the board of trustees. Each
20 student representative shall have access to all written draft
21 agreements and all other written documents pertaining to
22 negotiations exchanged by the appropriate public employer and
23 the bargaining agent, including a copy of any prepared written
24 transcripts of any negotiating session. Each student
25 representative shall have the right at reasonable times during
26 the negotiating session to comment to the parties and to the
27 public upon the impact of proposed agreements on the
28 educational environment of students. Each student
29 representative shall have the right to be accompanied by
30 alternates or aides, not to exceed a combined total of two in
31 number. Each student representative shall be obligated to

1 participate in good faith during all negotiations and shall be
2 subject to the rules and regulations of the division ~~Public~~
3 ~~Employees Relations Commission~~. The student representatives
4 shall have neither voting nor veto power in any negotiation,
5 action, or agreement. The state or any branch, agency,
6 division, agent, or institution of the state shall not expend
7 any moneys from any source for the payment of reimbursement
8 for travel expenses or per diem to aides, alternates, or
9 student representatives participating in, observing, or
10 contributing to any negotiating sessions between the
11 bargaining parties; however, this limitation does not apply to
12 the use of student activity fees for the reimbursement of
13 travel expenses and per diem to the university student
14 representative, aides, or alternates participating in the
15 aforementioned negotiations between the Board of Regents and
16 the bargaining agent for an employee bargaining unit.

17 Section 156. Effective July 1, 2001, section 447.305,
18 Florida Statutes, is amended to read:

19 447.305 Registration of employee organization.--

20 (1) Every employee organization seeking to become a
21 certified bargaining agent for public employees shall register
22 with the division ~~commission~~ pursuant to the procedures set
23 forth in s. 120.60 prior to requesting recognition by a public
24 employer for purposes of collective bargaining and prior to
25 submitting a petition to the division ~~commission~~ requesting
26 certification as an exclusive bargaining agent. Further, if
27 such employee organization is not registered, it may not
28 participate in a representation hearing, participate in a
29 representation election, or be certified as an exclusive
30 bargaining agent. The application for registration required by
31

1 this section shall be under oath and in such form as the
2 division ~~commission~~ may prescribe and shall include:

3 (a) The name and address of the organization and of
4 any parent organization or organization with which it is
5 affiliated.

6 (b) The names and addresses of the principal officers
7 and all representatives of the organization.

8 (c) The amount of the initiation fee and of the
9 monthly dues which members must pay.

10 (d) The current annual financial statement of the
11 organization.

12 (e) The name of its business agent, if any; if
13 different from the business agent, the name of its local agent
14 for service of process; and the addresses where such person or
15 persons can be reached.

16 (f) A pledge, in a form prescribed by the division
17 ~~commission~~, that the employee organization will conform to the
18 laws of the state and that it will accept members without
19 regard to age, race, sex, religion, or national origin.

20 (g) A copy of the current constitution and bylaws of
21 the employee organization.

22 (h) A copy of the current constitution and bylaws of
23 the state and national groups with which the employee
24 organization is affiliated or associated. In lieu of this
25 provision, and upon adoption of a rule by the division
26 ~~commission~~, a state or national affiliate or parent
27 organization of any registering labor organization may
28 annually submit a copy of its current constitution and bylaws.

29 (2) A registration granted to an employee organization
30 pursuant to the provisions of this section shall run for 1
31 year from the date of issuance. A registration shall be

1 renewed annually by filing application for renewal under oath
2 with the division ~~commission~~, which application shall reflect
3 any changes in the information provided to the division
4 ~~commission~~ in conjunction with the employee organization's
5 preceding application for registration or previous renewal,
6 whichever is applicable. Each application for renewal of
7 registration shall include a current annual financial report,
8 signed by its president and treasurer or corresponding
9 principal officers, containing the following information in
10 such detail as may be necessary accurately to disclose its
11 financial condition and operations for its preceding fiscal
12 year and in such categories as the division ~~commission~~ may
13 prescribe:

14 (a) Assets and liabilities at the beginning and end of
15 the fiscal year;

16 (b) Receipts of any kind and the sources thereof;

17 (c) Salary, allowances, and other direct or indirect
18 disbursements, including reimbursed expenses, to each officer
19 and also to each employee who, during such fiscal year,
20 received more than \$10,000 in the aggregate from such employee
21 organization and any other employee organization affiliated
22 with it or with which it is affiliated or which is affiliated
23 with the same national or international employee organization;

24 (d) Direct and indirect loans made to any officer,
25 employee, or member which aggregated more than \$250 during the
26 fiscal year, together with a statement of the purpose,
27 security, if any, and arrangements for repayment; and

28 (e) Direct and indirect loans to any business
29 enterprise, together with a statement of the purpose,
30 security, if any, and arrangements for repayment.

31

1 (3) A registration fee shall accompany each
2 application filed with the division ~~commission~~. The amount
3 charged for an application for registration or renewal of
4 registration shall not exceed ~~\$25~~\$15. All such money
5 collected by the division ~~commission~~ shall be deposited in the
6 General Revenue Fund.

7 (4) Notification of registrations and renewals of
8 registration shall be furnished at regular intervals by the
9 division ~~commission~~ to the Department of Labor and Employment
10 Security.

11 (5) Every employee organization shall keep accurate
12 accounts of its income and expenses, which accounts shall be
13 open for inspection at all reasonable times by any member of
14 the organization or by the division ~~commission~~.

15 Section 157. Effective July 1, 2001, section 447.307,
16 Florida Statutes, is amended to read:

17 447.307 Certification of employee organization.--

18 (1)(a) Any employee organization which is designated
19 or selected by a majority of public employees in an
20 appropriate unit as their representative for purposes of
21 collective bargaining shall request recognition by the public
22 employer. The public employer shall, if satisfied as to the
23 majority status of the employee organization and the
24 appropriateness of the proposed unit, recognize the employee
25 organization as the collective bargaining representative of
26 employees in the designated unit. Upon recognition by a
27 public employer, the employee organization shall immediately
28 petition the division ~~commission~~ for certification. The
29 division ~~commission~~ shall review only the appropriateness of
30 the unit proposed by the employee organization. If the unit
31 is appropriate according to the criteria used in this part,

1 the division ~~commission~~ shall immediately certify the employee
2 organization as the exclusive representative of all employees
3 in the unit. If the unit is inappropriate according to the
4 criteria used in this part, the division ~~commission~~ may
5 dismiss the petition.

6 (b) Whenever a public employer recognizes an employee
7 organization on the basis of majority status and on the basis
8 of appropriateness in accordance with subparagraph (4)(f)5. of
9 this section, the division ~~commission~~ shall, in the absence of
10 inclusion of a prohibited category of employees or violation
11 of s. 447.501, certify the proposed unit.

12 (2) If the public employer refuses to recognize the
13 employee organization, the employee organization may file a
14 petition with the division ~~commission~~ for certification as the
15 bargaining agent for a proposed bargaining unit. The petition
16 shall be accompanied by dated statements signed by at least 30
17 percent of the employees in the proposed unit, indicating that
18 such employees desire to be represented for purposes of
19 collective bargaining by the petitioning employee
20 organization. Once a petition for certification has been
21 filed by an employee organization, any registered employee
22 organization desiring placement on the ballot in any election
23 to be conducted pursuant to this section may be permitted by
24 the division ~~commission~~ to intervene in the proceeding upon
25 motion accompanied by dated statements signed by at least 10
26 percent of the employees in the proposed unit, indicating that
27 such employees desire to be represented for the purposes of
28 collective bargaining by the moving employee organization.
29 The petitions and dated statements signed by the employees are
30 confidential and exempt from the provisions of s. 119.07(1),
31 except that any employee, employer, or employee organization

1 having sufficient reason to believe any of the employee
2 signatures were obtained by collusion, coercion, intimidation,
3 or misrepresentation or are otherwise invalid shall be given a
4 reasonable opportunity to verify and challenge the signatures
5 appearing on the petition.

6 (3)(a) The division ~~commission or one of its~~
7 ~~designated agents~~ shall investigate the petition to determine
8 its sufficiency; if it has reasonable cause to believe that
9 the petition is sufficient, the division ~~commission~~ shall
10 provide for an appropriate hearing upon due notice. Such a
11 hearing may be conducted by an agent of the division
12 ~~commission~~. If the division ~~commission~~ finds the petition to
13 be insufficient, it may dismiss the petition. If the division
14 ~~commission~~ finds upon the record of the hearing that the
15 petition is sufficient, it shall immediately:

16 1. Define the proposed bargaining unit and determine
17 which public employees shall be qualified and entitled to vote
18 at any election held by the division ~~commission~~.

19 2. Identify the public employer or employers for
20 purposes of collective bargaining with the bargaining agent.

21 3. Order an election by secret ballot, the cost of
22 said election and any required runoff election to be borne
23 equally by the parties, except as the division ~~commission~~ may
24 provide by rule. The division's ~~commission's~~ order assessing
25 costs of an election may be enforced pursuant to the
26 provisions of this part.

27 (b) When an employee organization is selected by a
28 majority of the employees voting in an election, the division
29 ~~commission~~ shall certify the employee organization as the
30 exclusive collective bargaining representative of all
31 employees in the unit. Certification is effective upon the

1 issuance of the final order by the division ~~commission~~ or, if
2 the final order is appealed, at the time the appeal is
3 exhausted or any stay is vacated by the division ~~commission~~ or
4 the court.

5 (c) In any election in which none of the choices on
6 the ballot receives the vote of a majority of the employees
7 voting, a runoff election shall be held according to rules
8 promulgated by the division ~~commission~~.

9 (d) No petition may be filed seeking an election in
10 any proposed or existing appropriate bargaining unit to
11 determine the exclusive bargaining agent within 12 months
12 after the date of a division ~~commission~~ order verifying a
13 representation election or, if an employee organization
14 prevails, within 12 months after the date of an effective
15 certification covering any of the employees in the proposed or
16 existing bargaining unit. Furthermore, if a valid collective
17 bargaining agreement covering any of the employees in a
18 proposed unit is in effect, a petition for certification may
19 be filed with the division ~~commission~~ only during the period
20 extending from 150 days to 90 days immediately preceding the
21 expiration date of that agreement, or at any time subsequent
22 to its expiration date but prior to the effective date of any
23 new agreement. The effective date of a collective bargaining
24 agreement means the date of ratification by both parties, if
25 the agreement becomes effective immediately or retroactively;
26 or its actual effective date, if the agreement becomes
27 effective after its ratification date.

28 (4) In defining a proposed bargaining unit, the
29 division ~~commission~~ shall take into consideration:

30 (a) The principles of efficient administration of
31 government.

1 (b) The number of employee organizations with which
2 the employer might have to negotiate.

3 (c) The compatibility of the unit with the joint
4 responsibilities of the public employer and public employees
5 to represent the public.

6 (d) The power of the officials of government at the
7 level of the unit to agree, or make effective recommendations
8 to another administrative authority or to a legislative body,
9 with respect to matters of employment upon which the employee
10 desires to negotiate.

11 (e) The organizational structure of the public
12 employer.

13 (f) Community of interest among the employees to be
14 included in the unit, considering:

15 1. The manner in which wages and other terms of
16 employment are determined.

17 2. The method by which jobs and salary classifications
18 are determined.

19 3. The interdependence of jobs and interchange of
20 employees.

21 4. The desires of the employees.

22 5. The history of employee relations within the
23 organization of the public employer concerning organization
24 and negotiation and the interest of the employees and the
25 employer in the continuation of a traditional, workable, and
26 accepted negotiation relationship.

27 (g) The statutory authority of the public employer to
28 administer a classification and pay plan.

29 (h) Such other factors and policies as the division
30 ~~commission~~ may deem appropriate.

31

1 However, no unit shall be established or approved for purposes
2 of collective bargaining which includes both professional and
3 nonprofessional employees unless a majority of each group
4 votes for inclusion in such unit.

5 Section 158. Effective July 1, 2001, section 447.308,
6 Florida Statutes, is amended to read:

7 447.308 Revocation of certification of employee
8 organization.--

9 (1) Any employee or group of employees which no longer
10 desires to be represented by the certified bargaining agent
11 may file with the division ~~commission~~ a petition to revoke
12 certification. The petition shall be accompanied by dated
13 statements signed by at least 30 percent of the employees in
14 the unit, indicating that such employees no longer desire to
15 be represented for purposes of collective bargaining by the
16 certified bargaining agent. The time of filing said petition
17 shall be governed by the provisions of s. 447.307(3)(d)
18 relating to petitions for certification. Any employee or
19 employee organization having sufficient reason to believe any
20 of the employee signatures were obtained by collusion,
21 coercion, intimidation, or misrepresentation or are otherwise
22 invalid shall be given a reasonable opportunity to verify and
23 challenge the signatures appearing on the petition. The
24 division ~~commission or one of its designated agents~~ shall
25 investigate the petition to determine its sufficiency. If the
26 division ~~commission~~ finds the petition to be insufficient, it
27 may dismiss the petition. If the division ~~commission~~ finds
28 that the petition is sufficient, it shall immediately:

29 (a) Identify the bargaining unit and determine which
30 public employees shall be qualified and entitled to vote in
31 the election held by the division ~~commission~~.

1 (b) Identify the public employer or employers.

2 (c) Order an election by secret ballot, the cost of
3 which is ~~said election~~ to be borne equally by the parties,
4 except as the division ~~commission~~ may provide by rule. The
5 division's ~~commission's~~ order assessing costs of an election
6 may be enforced pursuant to the provisions of this part.

7 (2) If a majority of the employees voting in such
8 election vote against the continuation of representation by
9 the certified bargaining agent, the certification of the
10 employee organization as the exclusive bargaining agent for
11 the employees in the bargaining unit shall be revoked.

12 (3) If a majority of the employees voting in such
13 election do not vote against the continuation of
14 representation by the certified bargaining agent, the
15 certification of the employee organization as the exclusive
16 bargaining agent for the employees in the unit shall be
17 retained by the organization.

18 Section 159. Effective July 1, 2001, subsection (4) of
19 section 447.309, Florida Statutes, is amended to read:

20 447.309 Collective bargaining; approval or
21 rejection.--

22 (4) If the agreement is not ratified by the public
23 employer or is not approved by a majority vote of employees
24 voting in the unit, in accordance with procedures adopted by
25 the division ~~commission~~, the agreement shall be returned to
26 the chief executive officer and the employee organization for
27 further negotiations.

28 Section 160. Effective July 1, 2001, section 447.403,
29 Florida Statutes, is amended to read:

30 447.403 Resolution of impasses.--

31

1 (1) ~~if~~, After a reasonable period of negotiation
2 concerning the terms and conditions of employment to be
3 incorporated in a collective bargaining agreement, if a
4 dispute still exists between a public employer and a
5 bargaining agent, an impasse shall be deemed to have occurred
6 when one of the parties so declares in writing to the other
7 party and to the legislative body of the governmental entity
8 involved ~~commission~~. When the Legislature is the appropriate
9 legislative body, the written declaration of impasse shall be
10 provided to the President of the Senate, the Speaker of the
11 House of Representatives, and the Senate and House substantive
12 committees staffing the impasse hearings.

13 (2) When an impasse occurs, the public employer or the
14 bargaining agent, or both parties acting jointly, may appoint,
15 or secure the appointment of, a mediator to assist in the
16 resolution of the impasse. Nothing in this section precludes
17 the parties from using the services of a mediator at any time
18 during the conduct of collective bargaining.

19 (3)(a)~~(2)~~ If no mediator is appointed, or upon the
20 request of either party, the appropriate legislative body
21 ~~commission~~ shall appoint, and submit all unresolved issues to,
22 a special master acceptable to both parties. If the parties
23 are unable to agree on the appointment of a special master,
24 the division ~~commission~~ shall appoint, in its discretion, a
25 qualified special master. However, if the parties agree in
26 writing to waive the appointment of a special master, the
27 parties may proceed directly to resolution of the impasse by
28 the appropriate legislative body pursuant to subparagraph (c)4
29 ~~paragraph (4)(d)~~. ~~Nothing in this section precludes the~~
30 ~~parties from using the services of a mediator at any time~~
31 ~~during the conduct of collective bargaining.~~

1 **(b)**~~(3)~~ The special master shall hold hearings in order
2 to define the area or areas of dispute, to determine facts
3 relating to the dispute, and to render a decision on any and
4 all unresolved contract issues. The hearings shall be held at
5 reasonable times, dates, and places to be established by the
6 special master ~~in accordance with rules promulgated by the~~
7 ~~commission~~. The special master shall be empowered to
8 administer oaths and issue subpoenas on behalf of the parties
9 to the dispute or on his or her own behalf. Within 15
10 calendar days after the close of the final hearing, the
11 special master shall transmit his or her recommended decision
12 ~~to the commission and~~ to the representatives of both parties
13 by registered mail, return receipt requested. Such
14 recommended decision shall be discussed by the parties, and
15 each recommendation of the special master shall be deemed
16 approved by both parties unless specifically rejected by
17 either party by written notice filed with the appropriate
18 legislative body ~~commission~~ within 20 calendar days after the
19 date the party received the special master's recommended
20 decision. The written notice shall include a statement of the
21 cause for each rejection and shall be served upon the other
22 party.

23 **(c)**~~(4)~~ In the event that either the public employer or
24 the employee organization does not accept, in whole or in
25 part, the recommended decision of the special master:

26 **1.**~~(a)~~ The chief executive officer of the governmental
27 entity involved shall, within 10 days after rejection of a
28 recommendation of the special master, submit to the
29 legislative body of the governmental entity involved a copy of
30 the findings of fact and recommended decision of the special
31 master, together with the chief executive officer's

1 recommendations for settling the disputed impasse issues. The
2 chief executive officer shall also transmit his or her
3 recommendations to the employee organization. If the dispute
4 involves employees for whom the Board of Regents is the public
5 employer, the Governor may also submit recommendations to the
6 legislative body for settling the disputed impasse issues.~~†~~

7 ~~2.(b)~~ The employee organization shall submit its
8 recommendations for settling the disputed impasse issues to
9 such legislative body and to the chief executive officer.~~†~~

10 ~~3.(c)~~ The legislative body or a duly authorized
11 committee thereof shall forthwith conduct a public hearing at
12 which the parties shall be required to explain their positions
13 with respect to the rejected recommendations of the special
14 master.~~†~~

15 ~~4.(d)~~ Thereafter, the legislative body shall take such
16 action as it deems to be in the public interest, including the
17 interest of the public employees involved, to resolve all
18 disputed impasse issues.~~† and~~

19
20 This subsection does not apply when the Legislature is the
21 appropriate legislative body.

22 (4) When the Legislature is the appropriate
23 legislative body, within 15 days after the declaration of
24 impasse is received by the Legislature, the public employer's
25 chief executive officer and the employee organization shall
26 submit their recommendations for settling the disputed impasse
27 issues to the Legislature and to the other party at impasse.
28 If the dispute involves employees for whom the Board of
29 Regents is the public employer, the Governor may also submit
30 recommendations to the Legislature for settling the disputed
31 impasse issues.

1 (5)~~(e)~~ Following the resolution of the disputed
2 impasse issues by the legislative body, the parties shall
3 reduce to writing an agreement which includes those issues
4 agreed to by the parties and those disputed impasse issues
5 resolved by the legislative body's action taken pursuant to
6 subparagraph (3)(c)4. or subsection (4)~~paragraph (d)~~. The
7 agreement shall be signed by the chief executive officer and
8 the bargaining agent and shall be submitted to the public
9 employer and to the public employees who are members of the
10 bargaining unit for ratification. If such agreement is not
11 ratified by all parties, pursuant to the provisions of s.
12 447.309, the legislative body's action taken pursuant to the
13 provisions of subparagraph (3)(c)4. or subsection (4)
14 ~~paragraph (d)~~ shall take effect as of the date of such
15 legislative body's action for the remainder of the first
16 fiscal year which was the subject of negotiations; however,
17 the legislative body's action shall not take effect with
18 respect to those disputed impasse issues which establish the
19 language of contractual provisions which could have no effect
20 in the absence of a ratified agreement, including, but not
21 limited to, preambles, recognition clauses, and duration
22 clauses.

23 Section 161. Effective July 1, 2001, section 447.4095,
24 Florida Statutes, is amended to read:

25 447.4095 Financial urgency.--In the event of a
26 financial urgency requiring modification of an agreement, the
27 chief executive officer or his or her representative and the
28 bargaining agent or its representative shall meet as soon as
29 possible to negotiate the impact of the financial urgency. If
30 after a reasonable period of negotiation which shall not
31 exceed 14 days, a dispute exists between the public employer

1 and the bargaining agent, an impasse shall be deemed to have
2 occurred, and one of the parties shall so declare in writing
3 to the other party and to the legislative body of the
4 governmental entity involved ~~commission~~. The parties shall
5 then proceed pursuant to the provisions of s. 447.403. An
6 unfair labor practice charge shall not be filed during the 14
7 days during which negotiations are occurring pursuant to this
8 section.

9 Section 162. Effective July 1, 2001, subsection (4) is
10 added to section 447.501, Florida Statutes, to read:

11 447.501 Unfair labor practices.--

12 (1) Public employers or their agents or
13 representatives are prohibited from:

14 (a) Interfering with, restraining, or coercing public
15 employees in the exercise of any rights guaranteed them under
16 this part.

17 (b) Encouraging or discouraging membership in any
18 employee organization by discrimination in regard to hiring,
19 tenure, or other conditions of employment.

20 (c) Refusing to bargain collectively, failing to
21 bargain collectively in good faith, or refusing to sign a
22 final agreement agreed upon with the certified bargaining
23 agent for the public employees in the bargaining unit.

24 (d) Discharging or discriminating against a public
25 employee because he or she has filed charges or given
26 testimony under this part.

27 (e) Dominating, interfering with, or assisting in the
28 formation, existence, or administration of, any employee
29 organization or contributing financial support to such an
30 organization.

31

1 (f) Refusing to discuss grievances in good faith
2 pursuant to the terms of the collective bargaining agreement
3 with either the certified bargaining agent for the public
4 employee or the employee involved.

5 (2) A public employee organization or anyone acting in
6 its behalf or its officers, representatives, agents, or
7 members are prohibited from:

8 (a) Interfering with, restraining, or coercing public
9 employees in the exercise of any rights guaranteed them under
10 this part or interfering with, restraining, or coercing
11 managerial employees by reason of their performance of job
12 duties or other activities undertaken in the interests of the
13 public employer.

14 (b) Causing or attempting to cause a public employer
15 to discriminate against an employee because of the employee's
16 membership or nonmembership in an employee organization or
17 attempting to cause the public employer to violate any of the
18 provisions of this part.

19 (c) Refusing to bargain collectively or failing to
20 bargain collectively in good faith with a public employer.

21 (d) Discriminating against an employee because he or
22 she has signed or filed an affidavit, petition, or complaint
23 or given any information or testimony in any proceedings
24 provided for in this part.

25 (e) Participating in a strike against the public
26 employer by instigating or supporting, in any positive manner,
27 a strike. Any violation of this paragraph shall subject the
28 violator to the penalties provided in this part.

29 (f) Instigating or advocating support, in any positive
30 manner, for an employee organization's activities from high
31

1 school or grade school students or students in institutions of
2 higher learning.

3 (3) Notwithstanding the provisions of subsections (1)
4 and (2), the parties' rights of free speech shall not be
5 infringed, and the expression of any arguments or opinions
6 shall not constitute, or be evidence of, an unfair employment
7 practice or of any other violation of this part, if such
8 expression contains no promise of benefits or threat of
9 reprisal or force.

10 (4) An unfair labor practice complaint must be filed
11 with a court of competent jurisdiction within 180 days after
12 the alleged violation. The court may award to the prevailing
13 party all or part of the costs of litigation, reasonable
14 attorney's fees, and expert witness fees whenever the court
15 determines that such award is appropriate.

16 Section 163. Effective July 1, 2001, section 447.503,
17 Florida Statutes, is repealed.

18 Section 164. Effective July 1, 2001, section 447.5035,
19 Florida Statutes, is amended to read:

20 447.5035 Enforcement of division ~~commission~~
21 orders.--In case of any failure by any employer, employee, or
22 employee organization to comply with any order of the division
23 ~~commission~~, upon application of the division ~~commission~~ or,
24 notwithstanding the provisions of s. 120.69(1)(b)1., upon
25 application of any person who is a resident of the state and
26 who is substantially interested in such order, any circuit
27 court of this state shall have jurisdiction to enforce the
28 order pursuant to the provisions of s. 120.69. However, if one
29 or more petitions for enforcement and a notice of appeal
30 involving the same agency action are pending at the same time,
31 the district court of appeal considering the notice of appeal

1 shall order all such actions transferred to and consolidated
2 in the district court of appeal. If a petition for
3 enforcement is filed after the time for filing notice of
4 appeal has expired, the respondent may assert as a defense
5 only that the agency action was not intended to apply to
6 respondent or that respondent has complied with the agency
7 action. Petitions for enforcement filed under this part shall
8 be heard expeditiously by the circuit court to which presented
9 and shall take precedence over all other civil matters except
10 prior matters of the same character.

11 Section 165. Effective January 1, 2002, section
12 447.504, Florida Statutes, is repealed.

13 Section 166. Effective July 1, 2001, section 447.507,
14 Florida Statutes, is amended to read:

15 447.507 Violation of strike prohibition; penalties.--

16 (1) Circuit courts having jurisdiction of the parties
17 are vested with the authority to hear and determine all
18 actions alleging violations of s. 447.505. Suits to enjoin
19 violations of s. 447.505 will have priority over all matters
20 on the court's docket except other emergency matters.

21 (2) If a public employee, a group of employees, an
22 employee organization, or any officer, agent, or
23 representative of any employee organization engages in a
24 strike in violation of s. 447.505, either the division
25 ~~commission~~ or any public employer whose employees are involved
26 or whose employees may be affected by the strike may file suit
27 to enjoin the strike in the circuit court having proper
28 jurisdiction and proper venue of such actions under the
29 Florida Rules of Civil Procedure and Florida Statutes. The
30 circuit court shall conduct a hearing, with notice to the
31 division ~~commission~~ and to all interested parties, at the

1 earliest practicable time. If the plaintiff makes a prima
2 facie showing that a violation of s. 447.505 is in progress or
3 that there is a clear, real, and present danger that such a
4 strike is about to commence, the circuit court shall issue a
5 temporary injunction enjoining the strike. Upon final
6 hearing, the circuit court shall either make the injunction
7 permanent or dissolve it.

8 (3) If an injunction to enjoin a strike issued
9 pursuant to this section is not promptly complied with, on the
10 application of the plaintiff, the circuit court shall
11 immediately initiate contempt proceedings against those who
12 appear to be in violation. An employee organization found to
13 be in contempt of court for violating an injunction against a
14 strike shall be fined an amount deemed appropriate by the
15 court. In determining the appropriate fine, the court shall
16 objectively consider the extent of lost services and the
17 particular nature and position of the employee group in
18 violation. In no event shall the fine exceed \$5,000. Each
19 officer, agent, or representative of an employee organization
20 found to be in contempt of court for violating an injunction
21 against a strike shall be fined not less than \$50 nor more
22 than \$100 for each calendar day that the violation is in
23 progress.

24 (4) An employee organization shall be liable for any
25 damages which might be suffered by a public employer as a
26 result of a violation of the provisions of s. 447.505 by the
27 employee organization or its representatives, officers, or
28 agents. The circuit court having jurisdiction over such
29 actions is empowered to enforce judgments against employee
30 organizations, as defined in this part, by attachment or
31 garnishment of union initiation fees or dues which are to be

1 deducted or checked off by public employers. ~~No action shall~~
2 ~~be maintained pursuant to this subsection until all~~
3 ~~proceedings which were pending before the commission at the~~
4 ~~time of the strike or which were initiated within 30 days of~~
5 ~~the strike have been finally adjudicated or otherwise disposed~~
6 ~~of.~~ In determining the amount of damages, if any, to be
7 awarded to the public employer, the trier of fact shall take
8 into consideration any action or inaction by the public
9 employer or its agents that provoked or tended to provoke the
10 strike by the public employees. The trier of fact shall also
11 take into consideration any damages that might have been
12 recovered by the public employer under subparagraph (6)(a)4.

13 (5) ~~If the commission, after a hearing on notice~~
14 ~~conducted according to rules promulgated by the commission,~~
15 ~~determines that an employee has violated s. 447.505, it may~~
16 ~~order the termination of his or her employment by the public~~
17 ~~employer.~~ Notwithstanding any other provision of law, a person
18 knowingly violating s. 447.505 ~~the provision of said section~~
19 may, subsequent to such violation, be appointed, reappointed,
20 employed, or reemployed as a public employee, but only upon
21 the following conditions:

22 (a) Such person shall be on probation for a period of
23 6 months following his or her appointment, reappointment,
24 employment, or reemployment, during which period he or she
25 shall serve without tenure. During this period, the person may
26 be discharged only upon a showing of just cause.

27 (b) His or her compensation may in no event exceed
28 that received immediately prior to the time of the violation.

29 (c) The compensation of the person may not be
30 increased until after the expiration of 1 year from such
31 appointment, reappointment, employment, or reemployment.

1 (6)(a) If the division ~~commission~~ determines that an
2 employee organization has violated s. 447.505, it may:

3 1. Issue cease and desist orders as necessary to
4 ensure compliance with its order.

5 2. Suspend or revoke the certification of the employee
6 organization as the bargaining agent of such employee unit.

7 3. Revoke the right of dues deduction and collection
8 previously granted to said employee organization pursuant to
9 s. 447.303.

10 4. Fine the organization up to \$20,000 for each
11 calendar day of such violation or determine the approximate
12 cost to the public due to each calendar day of the strike and
13 fine the organization an amount equal to such cost,
14 notwithstanding the fact that the fine may exceed \$20,000 for
15 each such calendar day. The fines so collected shall
16 immediately accrue to the public employer and shall be used by
17 him or her to replace those services denied the public as a
18 result of the strike. In determining the amount of damages,
19 if any, to be awarded to the public employer, the division
20 ~~commission~~ shall take into consideration any action or
21 inaction by the public employer or its agents that provoked,
22 or tended to provoke, the strike by the public employees.

23 (b) An organization determined to be in violation of
24 s. 447.505 shall not be certified until 1 year from the date
25 of final payment of any fine against it.

26 Section 167. Effective July 1, 2001, section 447.607,
27 Florida Statutes, is amended to read:

28 447.607 Division ~~Commission~~ rules; powers retained by
29 the Legislature.--The Legislature shall retain the right to
30 approve, amend, or rescind all rules promulgated by the
31 division ~~commission~~ pursuant to this part. In the absence of

1 legislative action to the contrary, all rules shall have full
2 force and effect.

3 Section 168. Effective June 30, 2002, subsection (7)
4 of section 20.171, Florida Statutes, is amended to read:

5 20.171 Department of Labor and Employment
6 Security.--There is created a Department of Labor and
7 Employment Security. The department shall operate its programs
8 in a decentralized fashion.

9 (7) The Unemployment Appeals Commission is following
10 ~~commissions are~~ established within the Department of Labor and
11 Employment Security.†

12 ~~(a) Public Employees Relations Commission.~~

13 ~~(b) Unemployment Appeals Commission.~~

14 Section 169. Effective January 1, 2002, paragraph (m)
15 of subsection (2) of section 39.202, Florida Statutes, is
16 amended to read:

17 39.202 Confidentiality of reports and records in cases
18 of child abuse or neglect.--

19 (2) Access to such records, excluding the name of the
20 reporter which shall be released only as provided in
21 subsection (4), shall be granted only to the following
22 persons, officials, and agencies:

23 (m) The Division of Human Resource Management of the
24 Department of Management Services ~~Public Employees Relations~~
25 ~~Commission~~ for the sole purpose of obtaining evidence for
26 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
27 to s. 109.240 ~~447.207~~. Records may be released only after
28 deletion of all information which specifically identifies
29 persons other than the employee.

30
31

1 Section 170. Effective January 1, 2002, subsection (4)
2 of section 112.044, Florida Statutes, as amended by this act,
3 is amended to read:

4 112.044 Public employers, employment agencies, labor
5 organizations; discrimination based on age prohibited;
6 exceptions; remedy.--

7 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
8 the state ~~who is within the Career Service System established~~
9 ~~by chapter 109 and who is aggrieved by a violation of this act~~
10 ~~may appeal to the Public Employees Relations Commission under~~
11 ~~the conditions and following the procedures prescribed in part~~
12 ~~II of chapter 447. Any person other than an employee who is~~
13 ~~within the Career Service System established by chapter 109,~~
14 ~~or any person employed by the Public Employees Relations~~
15 ~~Commission, who is aggrieved by a violation of this act may~~
16 bring a civil action in any court of competent jurisdiction
17 for such legal or equitable relief as will effectuate the
18 purposes of this act, unless voluntary binding arbitration is
19 conducted pursuant to s. 109.240.

20 Section 171. Effective January 1, 2002, paragraph (b)
21 of subsection (6), subsection (14), and paragraph (a) of
22 subsection (15) of section 112.0455, Florida Statutes, are
23 amended to read:

24 112.0455 Drug-Free Workplace Act.--

25 (6) NOTICE TO EMPLOYEES.--

26 (b) Prior to testing, all employees and job applicants
27 for employment shall be given a written policy statement from
28 the employer which contains:

29 1. A general statement of the employer's policy on
30 employee drug use, which shall identify:

31

- 1 a. The types of testing an employee or job applicant
2 may be required to submit to, including reasonable suspicion
3 or other basis; and
- 4 b. The actions the employer may take against an
5 employee or job applicant on the basis of a positive confirmed
6 drug test result.
- 7 2. A statement advising the employee or job applicant
8 of the existence of this section.
- 9 3. A general statement concerning confidentiality.
- 10 4. Procedures for employees and job applicants to
11 confidentially report the use of prescription or
12 nonprescription medications both before and after being
13 tested. Additionally, employees and job applicants shall
14 receive notice of the most common medications by brand name or
15 common name, as applicable, as well as by chemical name, which
16 may alter or affect a drug test. A list of such medications
17 shall be developed by the Agency for Health Care
18 Administration.
- 19 5. The consequences of refusing to submit to a drug
20 test.
- 21 6. Names, addresses, and telephone numbers of employee
22 assistance programs and local alcohol and drug rehabilitation
23 programs.
- 24 7. A statement that an employee or job applicant who
25 receives a positive confirmed drug test result may contest or
26 explain the result to the employer within 5 working days after
27 written notification of the positive test result. If an
28 employee or job applicant's explanation or challenge is
29 unsatisfactory to the employer, the person may contest the
30 drug test result as provided by subsections (14) and (15).
31

1 8. A statement informing the employee or job applicant
2 of his or her responsibility to notify the laboratory of any
3 administrative or civil actions brought pursuant to this
4 section.

5 9. A list of all drugs for which the employer will
6 test, described by brand names or common names, as applicable,
7 as well as by chemical names.

8 10. A statement regarding any applicable collective
9 bargaining agreement or contract and the right to appeal to
10 the circuit court ~~Public Employees Relations Commission~~.

11 11. A statement notifying employees and job applicants
12 of their right to consult the testing laboratory for technical
13 information regarding prescription and nonprescription
14 medication.

15 (14) DISCIPLINE REMEDIES.--

16 (a) An executive branch employee who is disciplined or
17 who is a job applicant for another position and is not hired
18 pursuant to this section, may file an appeal with the circuit
19 court ~~Public Employees Relations Commission~~. Any appeal must
20 be filed within 30 calendar days of receipt by the employee or
21 job applicant of notice of discipline or refusal to hire. The
22 notice shall inform the employee or job applicant of the right
23 to file an appeal, or if available, the right to file a
24 collective bargaining grievance pursuant to s. 447.401. ~~Such~~
25 ~~appeals shall be resolved pursuant to the procedures~~
26 ~~established in ss. 447.207(1)-(4), 447.208(2), and 447.503(4)~~
27 ~~and (5)~~. A hearing on the appeal shall be conducted within 30
28 days after ~~of~~ the filing of the appeal, unless an extension is
29 requested by the employee or job applicant and granted by the
30 court commission or a collective bargaining grievance an
31 arbitrator.

1 ~~(b) The commission shall promulgate rules concerning~~
2 ~~the receipt, processing, and resolution of appeals filed~~
3 ~~pursuant to this section.~~

4 ~~(c) Appeals to the commission shall be the exclusive~~
5 ~~administrative remedy for any employee who is disciplined or~~
6 ~~any job applicant who is not hired pursuant to this section,~~
7 ~~notwithstanding the provisions of chapter 120. However,~~
8 ~~Nothing in this subsection shall affect the right of an~~
9 ~~employee or job applicant to file a collective bargaining~~
10 ~~grievance pursuant to s. 447.401 provided that an employee or~~
11 ~~job applicant may not file both an appeal and a grievance.~~

12 ~~(d) An employee or a job applicant who has been~~
13 ~~disciplined or who has not been hired pursuant to this section~~
14 ~~must exhaust either the administrative appeal process or~~
15 ~~collective bargaining grievance arbitration process.~~

16 ~~(e) Upon resolving an appeal filed pursuant to~~
17 ~~paragraph (c), and finding a violation of this section, the~~
18 ~~commission may order the following relief:~~

19 ~~1. Rescind the disciplinary action, expunge related~~
20 ~~records from the personnel file of the employee or job~~
21 ~~applicant and reinstate the employee.~~

22 ~~2. Order compliance with paragraph (10)(g).~~

23 ~~3. Award back pay and benefits.~~

24 (b)4. ~~The court may~~ award the prevailing employee or
25 job applicant the necessary costs of the appeal, reasonable
26 attorney's fees, and expert witness fees.

27 (15) NONDISCIPLINE REMEDIES.--

28 (a) Any person alleging a violation of the provisions
29 of this section, that is not remediable ~~by the commission or~~
30 ~~an arbitrator~~ pursuant to subsection (14), must institute a
31 civil action for injunctive relief or damages, or both, in a

1 court of competent jurisdiction within 180 days of the alleged
2 violation, or be barred from obtaining the following relief.

3 Relief is limited to:

4 1. An order restraining the continued violation of
5 this section.

6 2. An award of the costs of litigation, expert witness
7 fees, reasonable attorney's fees, and noneconomic damages
8 provided that damages shall be limited to the recovery of
9 damages directly resulting from injury or loss caused by each
10 violation of this section.

11 Section 172. Effective July 1, 2001, paragraph (a) of
12 subsection (8) of section 112.215, Florida Statutes, is
13 amended to read:

14 112.215 Government employees; deferred compensation
15 program.--

16 (8)(a) There is hereby created a Deferred Compensation
17 Advisory Council composed of seven members.

18 1. One member shall be appointed by the Speaker of the
19 House of Representatives and the President of the Senate
20 jointly and shall be an employee of the legislative branch.

21 2. One member shall be appointed by the Chief Justice
22 of the Supreme Court and shall be an employee of the judicial
23 branch.

24 3. One member shall be appointed by the Department of
25 Management Services ~~chair of the Public Employees Relations~~
26 ~~Commission~~ and shall be a nonexempt public employee.

27 4. The remaining four members shall be employed by the
28 executive branch and shall be appointed as follows:

29 a. One member shall be appointed by the Chancellor of
30 the State University System and shall be an employee of the
31 university system.

1 b. One member shall be appointed by the Treasurer and
2 shall be an employee of the Treasurer.

3 c. One member shall be appointed by the Governor and
4 shall be an employee of the executive branch.

5 d. One member shall be appointed by the Comptroller
6 and shall be an employee of the Comptroller.

7 Section 173. Effective July 1, 2001, paragraph (a) of
8 subsection (3) and subsection (4) of section 112.31895,
9 Florida Statutes, are amended to read:

10 112.31895 Investigative procedures in response to
11 prohibited personnel actions.--

12 (3) CORRECTIVE ACTION AND TERMINATION OF
13 INVESTIGATION.--

14 (a) The Florida Commission on Human Relations, in
15 accordance with this act and for the sole purpose of this act,
16 is empowered to:

17 1. Receive and investigate complaints from employees
18 alleging retaliation by state agencies, as the term "state
19 agency" is defined in s. 216.011.

20 2. Protect employees and applicants for employment
21 with such agencies from prohibited personnel practices under
22 s. 112.3187.

23 3. Petition for stays and petition for corrective
24 actions, including, but not limited to, temporary
25 reinstatement.

26 4. Recommend disciplinary proceedings pursuant to
27 investigation and appropriate agency rules and procedures.

28 5. Coordinate with the Chief Inspector General in the
29 Executive Office of the Governor and the Florida Commission on
30 Human Relations to receive, review, and forward to appropriate
31 agencies, legislative entities, or the Department of Law

1 Enforcement disclosures of a violation of any law, rule, or
2 regulation, or disclosures of gross mismanagement,
3 malfeasance, misfeasance, nonfeasance, neglect of duty, or
4 gross waste of public funds.

5 6. Review rules pertaining to personnel matters issued
6 or proposed by the Department of Management Services,~~the~~
7 ~~Public Employees Relations Commission~~,and other agencies,
8 and, if the Florida Commission on Human Relations finds that
9 any rule or proposed rule, on its face or as implemented,
10 requires the commission of a prohibited personnel practice,
11 provide a written comment to the appropriate agency.

12 7. Investigate, request assistance from other
13 governmental entities, and, if appropriate, bring actions
14 concerning, allegations of retaliation by state agencies under
15 subparagraph 1.

16 8. Administer oaths, examine witnesses, take
17 statements, issue subpoenas, order the taking of depositions,
18 order responses to written interrogatories, and make
19 appropriate motions to limit discovery, pursuant to
20 investigations under subparagraph 1.

21 9. Intervene or otherwise participate, as a matter of
22 right, in any appeal or other proceeding arising under this
23 section before an ~~the Public Employees Relations Commission or~~
24 ~~any other appropriate~~ agency, except that the Florida
25 Commission on Human Relations must comply with the rules of
26 that ~~the commission or other~~ agency and may not seek
27 corrective action or intervene in an appeal or other
28 proceeding without the consent of the person protected under
29 ss. 112.3187-112.31895.

30 10. Conduct an investigation, in the absence of an
31 allegation, to determine whether reasonable grounds exist to

1 believe that a prohibited action or a pattern of prohibited
2 action has occurred, is occurring, or is to be taken.

3 (4) RIGHT TO APPEAL.--

4 ~~(a)~~ Not more than 60 days after receipt of a notice of
5 termination of the investigation from the Florida Commission
6 on Human Relations, the complainant may file for judicial
7 review of the notice of termination as provided for in s.
8 120.68. The notice of termination of the investigation, which
9 shall contain a statement of facts, analysis, and conclusions,
10 shall be considered final agency action for purposes of s.
11 120.68., with the Public Employees Relations Commission, a
12 complaint against the hearings regarding the alleged
13 prohibited personnel action. The Public Employees Relations
14 Commission shall have jurisdiction over such complaints under
15 ss. 112.3187 and 447.503(4) and (5).

16 ~~(b)~~ ~~Judicial review of any final order of the~~
17 ~~commission shall be as provided in s. 120.68.~~

18 Section 174. Effective July 1, 2001, subsection (12)
19 of section 120.80, Florida Statutes, is amended to read:

20 120.80 Exceptions and special requirements;
21 agencies.--

22 (12) DEPARTMENT OF MANAGEMENT SERVICES PUBLIC
23 EMPLOYEES RELATIONS COMMISSION.--

24 ~~(a)~~ ~~Notwithstanding s. 120.57(1)(a), hearings within~~
25 ~~the jurisdiction of the Public Employees Relations Commission~~
26 ~~need not be conducted by an administrative law judge assigned~~
27 ~~by the division.~~

28 ~~(b)~~ Section 120.60 does not apply to certification of
29 employee organizations pursuant to s. 447.307.

30 Section 175. Paragraph (d) of subsection (2) of
31 section 125.0108, Florida Statutes, is repealed.

1 Section 176. Paragraph (b) of subsection (9) of
2 section 376.75, Florida Statutes, is amended to read:

3 376.75 Tax on production or importation of
4 perchloroethylene.--

5 (9)

6 (b) ~~The Department of Revenue, under the applicable~~
7 ~~rules of the Public Employees Relations Commission, is~~
8 ~~authorized to employ persons and incur other expenses for~~
9 ~~which funds are appropriated by the Legislature.~~The

10 Department of Revenue is empowered to adopt such rules and
11 shall prescribe and publish such forms as may be necessary to
12 effectuate the purposes of this section.

13 Section 177. Paragraph (b) of subsection (3) of
14 section 403.718, Florida Statutes, is amended to read:

15 403.718 Waste tire fees.--

16 (3)

17 (b) ~~The Department of Revenue, under the applicable~~
18 ~~rules of the Career Service Commission, is authorized to~~
19 ~~employ persons and incur other expenses for which funds are~~
20 ~~appropriated by the Legislature.~~ The department is empowered
21 to adopt such rules and shall prescribe and publish such forms
22 as may be necessary to effectuate the purposes of this
23 section. The department is authorized to establish audit
24 procedures and to assess delinquent fees.

25 Section 178. Section 538.11, Florida Statutes, is
26 amended to read:

27 538.11 Powers and duties of department; rules.--The
28 same duties and privileges imposed by chapter 212 upon dealers
29 of tangible personal property respecting the keeping of books
30 and records and accounts and compliance with rules of the
31 department shall apply to and be binding upon all persons who

1 are subject to the provisions of this chapter. The department
2 shall administer, collect, and enforce the registration
3 authorized under this chapter pursuant to the same procedures
4 used in the administration, collection, and enforcement of the
5 general state sales tax imposed under chapter 212, except as
6 provided in this section. The provisions of chapter 212
7 regarding the keeping of records and books shall apply. ~~The~~
8 ~~department, under the applicable rules of the Career Service~~
9 ~~Commission, is authorized to employ persons and incur other~~
10 ~~expenses for which funds are appropriated by the Legislature.~~
11 The department is empowered to adopt such rules, and shall
12 prescribe and publish such forms, as may be necessary to
13 effectuate the purposes of this chapter. The Legislature
14 hereby finds that the failure to promptly implement the
15 provisions of this chapter would present an immediate threat
16 to the welfare of the state. Therefore, the executive director
17 of the department is hereby authorized to adopt emergency
18 rules pursuant to s. 120.54(4), for purposes of implementing
19 this chapter. Notwithstanding any other provision of law, such
20 emergency rules shall remain effective for 6 months from the
21 date of adoption. Other rules of the department related to and
22 in furtherance of the orderly implementation of the chapter
23 shall not be subject to a rule challenge under s. 120.56(2) or
24 a drawout proceeding under s. 120.54(3)(c)2. but, once
25 adopted, shall be subject to an invalidity challenge under s.
26 120.56(3). Such rules shall be adopted by the Governor and
27 Cabinet and shall become effective upon filing with the
28 Department of State, notwithstanding the provisions of s.
29 120.54(3)(e)6.

30 Section 179. Effective July 1, 2001, section 284.30,
31 Florida Statutes, is amended to read:

1 284.30 State Risk Management Trust Fund; coverages to
2 be provided.--A state self-insurance fund, designated as the
3 "State Risk Management Trust Fund," is created to be set up by
4 the Department of Insurance and administered with a program of
5 risk management, which fund is to provide insurance, as
6 authorized by s. 284.33, for workers' compensation, general
7 liability, fleet automotive liability, federal civil rights
8 actions under 42 U.S.C. s. 1983 or similar federal statutes,
9 and court-awarded attorney's fees in other proceedings against
10 the state except for such awards in eminent domain or for
11 inverse condemnation ~~or for awards by the Public Employees~~
12 ~~Relations Commission~~. A party to a suit in any court, to be
13 entitled to have his or her attorney's fees paid by the state
14 or any of its agencies, must serve a copy of the pleading
15 claiming the fees on the Department of Insurance; and
16 thereafter the department shall be entitled to participate
17 with the agency in the defense of the suit and any appeal
18 thereof with respect to such fees.

19 Section 180. Effective July 1, 2001, section 284.31,
20 Florida Statutes, is amended to read:

21 284.31 Scope and types of coverages; separate
22 accounts.--The insurance risk management trust fund shall,
23 unless specifically excluded by the Department of Insurance,
24 cover all departments of the State of Florida and their
25 employees, agents, and volunteers and shall provide separate
26 accounts for workers' compensation, general liability, fleet
27 automotive liability, federal civil rights actions under 42
28 U.S.C. s. 1983 or similar federal statutes, and court-awarded
29 attorney's fees in other proceedings against the state except
30 for such awards in eminent domain or for inverse condemnation
31 ~~or for awards by the Public Employees Relations Commission~~.

1 Unless specifically excluded by the Department of Insurance,
2 the insurance risk management trust fund shall provide fleet
3 automotive liability coverage to motor vehicles titled to the
4 state, or to any department of the state, when such motor
5 vehicles are used by community transportation coordinators
6 performing, under contract to the appropriate department of
7 the state, services for the transportation disadvantaged under
8 part I of chapter 427. Such fleet automotive liability
9 coverage shall be primary and shall be subject to the
10 provisions of s. 768.28 and parts II and III of chapter 284,
11 and applicable rules adopted thereunder, and the terms and
12 conditions of the certificate of coverage issued by the
13 Department of Insurance.

14 Section 181. Effective January 1, 2002, section
15 295.11, Florida Statutes, is amended to read:

16 295.11 Investigation; administrative hearing for not
17 employing preferred applicant.--

18 (1) The Department of Veterans' Affairs or its
19 designee shall, upon the written request of any person
20 specified in s. 295.07, investigate any complaint filed with
21 the department by such person when the person has applied to
22 any state agency or any agency of a political subdivision in
23 the state for a position of employment which was awarded to a
24 nonveteran and the person feels aggrieved under this chapter.
25 The Department of Veterans' Affairs shall review each case ~~and~~
26 ~~may issue an opinion to the Public Employees Relations~~
27 ~~Commission~~ as to the merit or lack of merit in each case. The
28 investigation must be accomplished within existing amounts
29 appropriated to the department.

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31

1 (2) Upon completion of the investigation, the
2 department shall furnish a copy of the investigative findings
3 to the complainant and to the agency involved.

4 ~~(3) When a satisfactory resolution to the complaint is~~
5 ~~not forthcoming, any department of the state or political~~
6 ~~subdivision in the state may testify telephonically or in~~
7 ~~person at the discretion of the Public Employees Relations~~
8 ~~Commission. The complainant, however, may be represented at~~
9 ~~the hearing by counsel of his or her choice at his or her~~
10 ~~expense.~~

11 (3)~~(4)~~ Jurisdiction to effectuate the purposes of ss.
12 295.07-295.09 shall vest with the circuit court, unless
13 voluntary binding arbitration is conducted pursuant to s.
14 109.240 ~~Public Employees Relations Commission for appropriate~~
15 ~~administrative determination. If, upon preliminary review of~~
16 ~~the Public Employees Relations Commission, the commission~~
17 ~~agrees with the department's determination that a case lacks~~
18 ~~merit and finds, in its discretion, that there was a complete~~
19 ~~absence of justiciable issues of either law or fact raised by~~
20 ~~the veterans' preference complaint, the Public Employees~~
21 ~~Relations Commission shall dismiss the complaint without the~~
22 ~~necessity of holding a hearing.~~

23 Section 182. Effective January 1, 2002, section
24 295.14, Florida Statutes, is amended to read:

25 295.14 Penalties.--

26 (1) When the court ~~Public Employees Relations~~
27 ~~Commission, after a hearing on notice conducted according to~~
28 ~~rules adopted by the commission, determines that a violation~~
29 ~~of s. 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b)~~
30 ~~has occurred and sustains the veteran seeking redress, the~~
31 court ~~commission~~ shall order the offending agency, employee,

1 or officer of the state to comply with the provisions of s.
2 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b); and,
3 in the event of a violation of s. 295.07, s. 295.08, s.
4 295.085, or s. 295.09(1)(a) or (b), the court commission may
5 issue an order to compensate the veteran for the loss of any
6 wages and reasonable attorney's fees for actual hours worked,
7 ~~and costs of all work, including litigation, incurred as a~~
8 ~~result of such violation, which order shall be conclusive on~~
9 ~~the agency, employee, or officer concerned.~~ The attorney's
10 fees and costs may not exceed \$10,000. ~~The action of the~~
11 ~~commission shall be in writing and shall be served on the~~
12 ~~parties concerned by certified mail with return receipt~~
13 ~~requested.~~

14 ~~(2) When reparation is sought through civil action in~~
15 ~~a court of competent jurisdiction, Any agency, employee, or~~
16 officer of the state or a political subdivision thereof found
17 in violation of any provision of this act shall, in addition
18 to any other edict issued by the court, be required to pay the
19 costs of suit and reasonable attorney's fees incurred in such
20 action and shall be required to pay as damages such amount as
21 the court may award, any law to the contrary notwithstanding.

22 (2)~~(3)~~ Any employee or officer found liable pursuant
23 to a second or subsequent violation of the provisions of this
24 section shall forfeit his or her position.

25 Section 183. Effective January 1, 2002, paragraph (k)
26 of subsection (3) of section 415.107, Florida Statutes, is
27 amended to read:

28 415.107 Confidentiality of reports and records.--

29 (3) Access to all records, excluding the name of the
30 reporter which shall be released only as provided in
31

1 subsection (6), shall be granted only to the following
2 persons, officials, and agencies:

3 (k) The Division of Human Resource Management of the
4 Department of Management Services ~~Public Employees Relations~~
5 ~~Commission~~ for the sole purpose of obtaining evidence for
6 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
7 to s. 109.240 ~~447.207~~. Records may be released only after
8 deletion of all information that specifically identifies
9 persons other than the employee.

10 Section 184. Effective January 1, 2002, paragraph (a)
11 of subsection (3) of section 440.102, Florida Statutes, is
12 amended to read:

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

17 (3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.--

18 (a) One time only, prior to testing, an employer shall
19 give all employees and job applicants for employment a written
20 policy statement which contains:

21 1. ~~A general statement of~~ The employer's policy on
22 employee drug use, which must identify:

23 a. The types of drug testing an employee or job
24 applicant may be required to submit to, including
25 reasonable-suspicion drug testing or drug testing conducted on
26 any other basis.

27 b. The actions the employer may take against an
28 employee or job applicant on the basis of a positive confirmed
29 drug test result.

30 2. Notification to ~~A statement advising~~ the employee
31 or job applicant of the existence of this section.

- 1 3. Provisions ~~A general statement~~ concerning
2 confidentiality.
- 3 4. Procedures for employees and job applicants to
4 confidentially report to a medical review officer the use of
5 prescription or nonprescription medications to a medical
6 review officer both before and after being tested.
- 7 5. A list of the most common medications, by brand
8 name or common name, as applicable, as well as by chemical
9 name, which may alter or affect a drug test. A list of such
10 medications as developed by the Agency for Health Care
11 Administration shall be available to employers through the
12 Division of Workers' Compensation of the Department of Labor
13 and Employment Security.
- 14 6. The consequences of refusing to submit to a drug
15 test.
- 16 7. A representative sampling of names, addresses, and
17 telephone numbers of employee assistance programs and local
18 drug rehabilitation programs.
- 19 8. A statement that an employee or job applicant who
20 receives a positive confirmed test result may contest or
21 explain the result to the medical review officer within 5
22 working days after receiving written notification of the test
23 result; that if an employee's or job applicant's explanation
24 or challenge is unsatisfactory to the medical review officer,
25 the medical review officer shall report a positive test result
26 back to the employer; and that a person may contest the drug
27 test result pursuant to law or to rules adopted by the Agency
28 for Health Care Administration.
- 29 9. Notification to ~~A statement informing~~ the employee
30 or job applicant of his or her responsibility to notify the
31

1 laboratory of any administrative or civil action brought
2 pursuant to this section.

3 10. A list of all drugs for which the employer will
4 test, described by brand name or common name, as applicable,
5 as well as by chemical name.

6 11. Notification ~~A statement~~ regarding any applicable
7 collective bargaining agreement or contract and any appeal
8 ~~rights the right to appeal to the Public Employees Relations~~
9 ~~Commission or applicable court.~~

10 12. Notification to the employee or ~~A statement~~
11 ~~notifying employees and job applicant applicants~~ of his or her
12 ~~their~~ right to consult with a medical review officer for
13 technical information regarding prescription or
14 nonprescription medication.

15 Section 185. Effective January 1, 2002, paragraph (c)
16 of subsection (3) of section 944.35, Florida Statutes, and
17 paragraph (b) of subsection (1) of section 985.4045, Florida
18 Statutes, are repealed.

19 Section 186. The Department of Management Services
20 shall coordinate the development and implementation of a
21 transition plan that supports the implementation of this act.
22 The Department of Labor and Employment Security, the Public
23 Employees Relations Commission, and all other state agencies
24 identified by the Department of Management Services shall
25 cooperate fully in developing and implementing the plan and
26 shall dedicate the financial and staff resources that are
27 necessary for such implementation.

28 Section 187. (1) Until July 1, 2001, the Public
29 Employees Relations Commission shall continue to exercise its
30 powers, duties, and functions pursuant to the authority
31 granted it under the Florida Statutes 2000.

1 (2) On and after July 1, 2001, the Public Employees
2 Relations Commission shall continue to exercise its powers,
3 duties, and functions pursuant to this act's amendments which
4 take effect July 1, 2001. As to those cases within the Public
5 Employees Relations Commission jurisdiction that are pending
6 before the commission on July 1, 2001, and for those cases
7 properly and timely filed with the commission after July 1,
8 2001, regarding an alleged adverse action, the commission
9 shall continue to exercise its authority under Florida
10 Statutes 2000.

11 (3) After June 30, 2002, the Public Employees
12 Relations Commission shall cease to exist.

13 Section 188. Effective July 1, 2001, there is hereby
14 appropriated for the 2001-2002 fiscal year \$400,000 from the
15 General Revenue Fund to the Division of Human Resource
16 Management of the Department of Management Services to
17 implement the provisions of this act.

18 Section 189. After July 1, 2001, the Executive Office
19 of the Governor shall process a budget amendment, or budget
20 amendments, subject to legislative notice and review under s.
21 216.177, Florida Statutes, to transfer the records, property,
22 and unexpended balances of appropriations, allocations, or
23 other funds of the Public Employees Relations Commission
24 within the Department of Labor and Employment Security to the
25 Division of Human Resource Management of the Department of
26 Management Services. Such budget amendment, or budget
27 amendments, shall maintain sufficient budget authority,
28 resources, and personnel at the Public Employees Relations
29 Commission to finalize existing cases under review and phase
30 out the operation of the commission. All existing cases and
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1 phase-out activities at the Public Employees Relations
2 Commission shall be concluded by June 30, 2002.

3 Section 190. On or before October 1, 2002, the
4 Department of Management Services shall adopt, amend, or
5 repeal rules as necessary to effectuate the provisions of
6 chapter 109, Florida Statutes, as created by this act, and in
7 accordance with the authority granted to the department in
8 chapter 109, Florida Statutes.

9 Section 191. Except as otherwise provided herein, this
10 act shall take effect upon becoming a law.

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HOUSE SUMMARY

Revises chapter 110, F.S., relating to public employees, as follows:

1. Renumbers the chapter as chapter 109, F.S.
2. Revises requirements relating to affirmative action plans and provides for methodologies to fully utilize available human resources.
3. Requires all state employees to participate in direct deposit.
4. Provides for deduction of the cost of making employee-requested wage deductions.
5. Eliminates the meritorious service awards program and provides for gain sharing.
6. Revises limitations on OPS employees.
7. Includes outsourcing or privatization in the meaning of "layoff" and provides that rules regarding layoff shall not include "bumping."
8. Directs the Department of Management Services to develop a model civil service classification and compensation program.
9. Provides for uniform recruitment and selection rules.
10. Provides that a career service employee may be suspended or dismissed for reasonable cause and that reasonable cause shall be determined by the agency head. Provides that the employee bears the burden of proof to establish that the agency head abused his or her discretion in regard to alleged adverse agency actions.

Provides that, effective January 1, 2002, career service employees shall serve at the pleasure of the agency head, and provides for appeals with respect to adverse actions to the circuit court or for voluntary binding arbitration with respect thereto.

Creates the Division of Human Resource Management in the Department of Management Services and abolishes the Public Employees Relations Commission effective June 30, 2002. Provides that the division shall assume the duties of the commission regarding collective bargaining and certification of bargaining agents July 1, 2001. Removes the authority of the commission to hear appeals regarding adverse agency actions effective January 1, 2002, and provides for appeal to the circuit court or voluntary binding arbitration in lieu thereof. Revises requirements relating to resolution of impasses. Provides for filing of unfair labor practices complaints with a court of competent jurisdiction. Provides for transition.

See bill for details.