

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.; amending and renumbering s.  
6           110.107, F.S.; revising definitions; repealing  
7           s. 110.108, F.S., relating to pilot projects  
8           for agencies seeking managerial flexibility for  
9           personnel programs, s. 110.109, F.S., relating  
10          to personnel audits of agencies, and s.  
11          110.1095, F.S., relating to training programs  
12          for supervisors and managers; amending and  
13          renumbering s. 110.1099, F.S.; specifying  
14          duties of agency heads with respect to  
15          education and training opportunities for state  
16          employees; amending and renumbering s. 110.112,  
17          F.S.; providing policy relating to use of human  
18          resources; revising provisions relating to  
19          implementation of affirmative action plans by  
20          agency heads, state attorneys, and public  
21          defenders; amending and renumbering s. 110.113,  
22          F.S.; requiring all state employees to  
23          participate in the direct deposit program;  
24          revising conditions for requesting an  
25          exemption; amending and renumbering s. 110.124,  
26          F.S.; providing that an employee who is  
27          terminated solely because of attaining age 65  
28          may request voluntary binding arbitration or  
29          apply to the circuit court for relief; amending  
30          and renumbering s. 110.1245, F.S.; providing  
31          for a savings sharing program of awards for

1 certain state agency and judicial branch  
2 employees; requiring a report; providing for  
3 annual bonus payments to employees; directing  
4 agency heads to develop a plan for awarding  
5 bonuses and providing requirements with respect  
6 thereto; authorizing department heads to incur  
7 expenditures for certain awards; repealing s.  
8 110.1246, F.S., which provides for lump-sum  
9 bonus payments to employees; amending and  
10 renumbering s. 110.131, F.S.; revising the time  
11 limitation on employment of  
12 other-personal-services temporary employees;  
13 requiring approval of the Governor's Office of  
14 Policy and Budget for extensions of such  
15 limitations; revising exemptions from such  
16 limitation; amending and renumbering s.  
17 110.203, F.S.; revising definitions; revising  
18 the definition of "layoff" to include  
19 outsourcing or privatization; creating s.  
20 109.2035, F.S.; directing the Department of  
21 Management Services, in consultation with  
22 specified entities, to develop a civil service  
23 classification and compensation program and  
24 providing requirements with respect thereto;  
25 directing the department to establish  
26 guidelines regarding certain types of pay and  
27 providing duties of agencies with respect  
28 thereto; amending and renumbering s. 110.205,  
29 F.S.; providing additional positions that are  
30 exempt from the Career Service System and  
31 included in the Selected Exempt Service;

1 providing that when an employee transfers from  
 2 the Career Service System to the Selected  
 3 Exempt Service, unused annual and sick leave,  
 4 and, under certain conditions, unused  
 5 compensatory leave, shall carry forward;  
 6 repealing ss. 109.207 and 109.209, F.S., as  
 7 renumbered by the act, relating to  
 8 establishment and maintenance of a uniform  
 9 classification plan and an equitable pay plan  
 10 and related agency duties; amending and  
 11 renumbering ss. 110.211 and 110.213, F.S.;  
 12 revising requirements with respect to  
 13 recruitment and selection; requiring completion  
 14 of a probationary period before attainment of  
 15 permanent status for new employees; amending  
 16 and renumbering s. 110.219, F.S.; providing  
 17 requirements regarding leave benefits for  
 18 Senior Management Service employees; amending  
 19 and renumbering s. 110.224, F.S.; revising  
 20 requirements relating to a review and  
 21 performance planning system and designating  
 22 such system a public employee performance  
 23 evaluation system; revising requirements  
 24 relating to certain information furnished to  
 25 employees and employee evaluation; amending and  
 26 renumbering s. 110.227, F.S.; providing that a  
 27 career service employee other than a law  
 28 enforcement or correctional officer or a  
 29 firefighter may be suspended or dismissed for  
 30 reasonable cause; providing that reasonable  
 31 cause shall be determined by the agency head

1 and specifying actions included thereunder;  
 2 specifying actions that constitute an abuse of  
 3 the agency head's sound discretion; revising  
 4 certain responsibilities of agency heads;  
 5 providing that, except with regard to law  
 6 enforcement or correctional officers or  
 7 firefighters, rules regarding layoff shall not  
 8 include "bumping"; deleting a requirement that  
 9 a layoff be conducted within an identified  
 10 competitive area with regard to employees other  
 11 than law enforcement or correctional officers  
 12 or firefighters; providing for appeal of  
 13 reductions in pay, transfers, layoffs, or  
 14 demotions to, and hearings regarding suspension  
 15 or dismissal before, the circuit court, or for  
 16 voluntary binding arbitration with respect  
 17 thereto; providing that, for any alleged  
 18 adverse agency action against an employee other  
 19 than a law enforcement or correctional officer  
 20 or a firefighter occurring after a specified  
 21 date, the employee bears the burden of proof to  
 22 establish that the agency head abused his or  
 23 her discretion; creating s. 109.237, F.S.;  
 24 creating an Office of Employee Relations within  
 25 the Department of Management Services;  
 26 providing for an executive director, a general  
 27 counsel, and an administrative assistant, and  
 28 their qualifications and duties; providing for  
 29 additional personnel; providing duties of the  
 30 department; providing powers and duties of the  
 31 office; creating s. 109.240, F.S.; providing

1 that any permanent career service employee may  
2 request voluntary binding arbitration  
3 administered by the Office of Employee  
4 Relations upon notice of an adverse agency  
5 action; providing definitions; providing  
6 requirements for such requests; providing for  
7 notice to the agency; specifying the employee's  
8 burden of proof; providing for arbitrators and  
9 their qualifications and authority; providing  
10 for employee panels and their qualifications  
11 and authority; providing duties of the office;  
12 providing for records; providing procedural  
13 requirements for arbitration proceedings;  
14 providing for rules; providing for application  
15 to the circuit court for an order confirming,  
16 vacating, or modifying the arbitration  
17 decision; providing for immunity; amending and  
18 renumbering s. 110.403, F.S.; increasing the  
19 limit on the number of Senior Management  
20 Service positions; amending and renumbering s.  
21 110.602, F.S.; removing the limit on the number  
22 of Selected Exempt Service positions; amending  
23 and renumbering ss. 110.1091, 110.1127,  
24 110.117, 110.1227, 110.123, 110.12312,  
25 110.1232, 110.129, 110.152, 110.1521, 110.1522,  
26 110.1523, 110.161, 110.171, 110.191, 110.233,  
27 110.235, 110.401, 110.402, 110.406, 110.502,  
28 110.601, 110.605, and 110.606, F.S.; clarifying  
29 and conforming language and correcting cross  
30 references; amending ss. 20.171, 20.18, 20.21,  
31 20.23, 20.255, 20.315, 24.105, 24.122, 68.087,

1 104.31, 106.082, 106.24, 112.044, 112.0805,  
2 112.313, 112.3189, 112.363, 121.021, 121.0515,  
3 121.055, 121.35, 215.94, 216.011, 216.251,  
4 231.381, 235.217, 240.209, 240.2111, 240.507,  
5 241.002, 242.331, 260.0125, 281.02, 287.175,  
6 288.708, 295.07, 296.04, 296.34, 311.07,  
7 339.175, 343.74, 381.85, 393.0657, 400.19,  
8 400.953, 402.3057, 402.55, 402.731, 409.1757,  
9 440.102, 440.4416, 443.171, 456.048, 471.038,  
10 509.036, 570.073, 570.074, 624.307, 627.0623,  
11 627.6488, 627.649, 627.6498, 627.6617, 655.019,  
12 943.0585, 943.059, 943.22, 944.35, 945.043,  
13 957.03, 985.04, 985.05, and 985.4045, F.S. ;  
14 conforming language and correcting cross  
15 references; amending s. 216.262, F.S. ;  
16 authorizing efficiency awards to state agencies  
17 based on changes to authorized positions and  
18 providing requirements with respect thereto;  
19 amending s. 447.201, F.S., relating to the  
20 statement of public policy regarding public  
21 employees; amending s. 447.205, F.S., relating  
22 to creation of the Public Employees Relations  
23 Commission; repealing s. 447.207(8), (9), (10),  
24 and (11), F.S., which provide for appeals to  
25 the commission with regard to adverse agency  
26 actions against career service employees;  
27 amending s. 447.208, F.S.; providing the  
28 employee's burden of proof for alleged adverse  
29 agency actions occurring on or after July 1,  
30 2001; repealing s. 447.208, F.S., which  
31 provides procedures for appeals to the

1 commission regarding certain adverse agency  
 2 actions, and s. 447.2085, F.S., which provides  
 3 for rules with respect thereto, effective  
 4 January 1, 2002; amending s. 447.307, F.S.;  
 5 providing requirements with respect to  
 6 bargaining units for certain law enforcement  
 7 agencies; amending s. 447.503, F.S.; conforming  
 8 language; amending s. 447.507, F.S.; revising  
 9 conditions under which a person who violates  
 10 the strike prohibition may be employed or  
 11 appointed; amending s. 39.202, F.S.; providing  
 12 for access to certain records by the office;  
 13 amending s. 112.044, F.S., which prohibits age  
 14 discrimination against public employees;  
 15 providing for court action by an aggrieved  
 16 employee if voluntary binding arbitration is  
 17 not conducted; amending s. 112.0455, F.S., the  
 18 Drug-Free Workplace Act; providing for appeals  
 19 with respect to discipline or not being hired  
 20 under said act to the circuit court rather than  
 21 the commission, or for voluntary binding  
 22 arbitration; amending s. 112.31895, F.S.;  
 23 providing for judicial review of notice of  
 24 termination of an investigation in connection  
 25 with the Whistle-blower's Act rather than  
 26 commission review; conforming language;  
 27 amending s. 120.80, F.S.; conforming language;  
 28 repealing s. 125.0108(2)(d), F.S., and amending  
 29 ss. 376.75, 403.718, and 538.11, F.S.; removing  
 30 provisions which authorize certain actions by  
 31 the Department of Revenue pursuant to rules of

1 the commission or the Career Service  
2 Commission; amending ss. 284.30 and 284.31,  
3 F.S.; conforming language; amending s. 415.107,  
4 F.S.; providing for access to certain records  
5 by the office; repealing ss. 944.35(3)(c) and  
6 985.4045(1)(b), F.S., which provide that  
7 violations by Department of Corrections  
8 employees of prohibitions against malicious  
9 battery and sexual misconduct, and violations  
10 by Department of Juvenile Justice employees of  
11 the prohibition against sexual misconduct, as  
12 determined by the commission, constitute cause  
13 for dismissal; directing the office to  
14 coordinate a transition plan; specifying  
15 transitional powers and duties of the  
16 commission and providing that it shall cease to  
17 hear certain appeals after June 30, 2002;  
18 providing an appropriation; transferring the  
19 commission to the Department of Management  
20 Services and certain of its property and  
21 personnel to the office; providing for budget  
22 amendments; providing for rules; providing  
23 effective dates.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 110.105, Florida Statutes, is  
28 renumbered as section 109.105, Florida Statutes.

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



1           109.107 ~~110.107~~ Definitions.--As used in this chapter,  
2 ~~the term:~~

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

5           ~~(2)(3)~~ "Furlough" means a temporary reduction in the  
6 regular hours of employment in a pay period, or temporary  
7 leave without pay for one or more pay periods, with a  
8 commensurate reduction in pay, necessitated by a projected  
9 deficit in any fund that supports salary and benefit  
10 appropriations. The deficit must be projected by the Revenue  
11 Estimating Conference pursuant to s. 216.136(3).

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

14           ~~(4)(2)~~ "Secretary" means the Secretary of Management  
15 Services.

16           Section 3. Sections 110.108 and 110.109, Florida  
17 Statutes, are repealed.

18           Section 4. Section 110.1082, Florida Statutes, is  
19 renumbered as section 109.1082, Florida Statutes.

20           Section 5. Section 110.1091, Florida Statutes, is  
21 renumbered as section 109.1091, Florida Statutes, and amended  
22 to read:

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

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

13 Section 6. Section 110.1095, Florida Statutes, is  
 14 repealed.

15 Section 7. Section 110.1099, Florida Statutes, is  
 16 renumbered as section 109.1099, Florida Statutes, and amended  
 17 to read:

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

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

30 (2) The department, in conjunction with the agencies,  
 31 shall request that public universities ~~such institutions~~

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

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

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

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

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 8. 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 an affirmative action plan in accordance with rules adopted by  
23 the department and approved by a majority vote of the  
24 Administration Commission before their adoption.

25 (b) Each executive agency shall establish annual goals  
26 for ensuring full utilization of groups underrepresented in  
27 its workforce as compared to the relevant labor market, as  
28 defined by the agency. Each state attorney and public defender  
29 shall establish annual goals for ensuring full utilization of  
30 groups underrepresented in his or her workforce as compared to  
31 the relevant labor market, as defined by the state attorney or

1 public defender. Each executive agency and each state attorney  
2 and public defender shall design the ~~its~~ affirmative action  
3 plan to meet the ~~its~~ established goals.

4 (c) An affirmative action-equal employment opportunity  
5 officer shall be appointed by the head of each executive  
6 agency and each state attorney and public defender. The  
7 affirmative action-equal employment opportunity officer's  
8 responsibilities shall ~~must~~ include determining annual goals,  
9 monitoring agency compliance, and providing consultation with  
10 ~~to~~ managers regarding progress, deficiencies, and appropriate  
11 corrective action.

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

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

27 (3) Each state attorney and public defender shall+

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

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

30 ~~utilization of groups underrepresented in its workforce as~~  
31 ~~compared to the relevant labor market in this state. The state~~

1 ~~attorneys' and public defenders' affirmative action plans must~~  
2 ~~be designed to meet the established goals.~~

3 ~~(c) Appoint an affirmative action-equal employment~~  
4 ~~opportunity officer.~~

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

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

13 (5) Any individual claiming to be aggrieved by an  
14 unlawful employment practice may file a complaint with the  
15 Florida Commission on Human Relations as provided by s.  
16 760.11(1)~~760.10(10)~~.

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

20 Section 9. Section 110.1127, Florida Statutes, is  
21 renumbered as section 109.1127, Florida Statutes, and  
22 subsection (1) of said section is amended to read:

23 109.1127 ~~110.1127~~ Employee security checks.--

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

31

1           Section 10. Section 110.1128, Florida Statutes, is  
2 renumbered as section 109.1128, Florida Statutes.

3           Section 11. Section 110.113, Florida Statutes, is  
4 renumbered as section 109.113, Florida Statutes, and,  
5 effective January 1, 2002, subsection (2) of said section is  
6 amended to read:

7           109.113 ~~110.113~~ Pay periods for state officers and  
8 employees; salary payments by direct deposit.--

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

20           Section 12. Sections 110.114, 110.115, 110.1155,  
21 110.116, and 110.1165, Florida Statutes, are renumbered as  
22 sections 109.114, 109.115, 109.1155, 109.116, and 109.1165,  
23 Florida Statutes, respectively.

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

27           109.117 ~~110.117~~ Paid holidays.--

28           (3) Each full-time employee is entitled to one  
29 personal holiday each year. Each part-time employee is  
30 entitled to a personal holiday each year which shall be  
31 calculated proportionately to the personal holiday allowed to

1 a full-time employee. Such personal holiday shall be credited  
2 to eligible employees on July 1 of each year to be taken prior  
3 to June 30 of the following year. Members of the teaching and  
4 research faculty of the State University System and  
5 administrative and professional positions exempted under s.  
6 109.205(2)(d)~~110.205(2)(d)~~ are not eligible for this benefit.

7 Section 14. Sections 110.118, 110.119, 110.120,  
8 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes,  
9 are renumbered as sections 109.118, 109.119, 109.120, 109.121,  
10 109.122, 109.1221, and 109.1225, Florida Statutes,  
11 respectively.

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

16 109.1227 ~~110.1227~~ Florida Employee Long-Term-Care Plan  
17 Act.--

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

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

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

27 109.123 ~~110.123~~ State group insurance program.--

28 (3) STATE GROUP INSURANCE PROGRAM.--

29 (g)1. A person eligible to participate in the state  
30 group insurance program may be authorized by rules adopted by  
31 the department, in lieu of participating in the state group



1 health insurance plan, to exercise an option to elect  
2 membership in a health maintenance organization plan which is  
3 under contract with the state in accordance with criteria  
4 established by this section and by said rules. The offer of  
5 optional membership in a health maintenance organization plan  
6 permitted by this paragraph may be limited or conditioned by  
7 rule as may be necessary to meet the requirements of state and  
8 federal laws.

9           2. The department shall contract with health  
10 maintenance organizations seeking to participate in the state  
11 group insurance program through a request for proposal or  
12 other procurement process, as developed by the Department of  
13 Management Services and determined to be appropriate.

14           a. The department shall establish a schedule of  
15 minimum benefits for health maintenance organization coverage,  
16 and that schedule shall include: physician services; inpatient  
17 and outpatient hospital services; emergency medical services,  
18 including out-of-area emergency coverage; diagnostic  
19 laboratory and diagnostic and therapeutic radiologic services;  
20 mental health, alcohol, and chemical dependency treatment  
21 services meeting the minimum requirements of state and federal  
22 law; skilled nursing facilities and services; prescription  
23 drugs; and other benefits as may be required by the  
24 department. Additional services may be provided subject to  
25 the contract between the department and the HMO.

26           b. The department may establish uniform deductibles,  
27 copayments, or coinsurance schedules for all participating HMO  
28 plans.

29           c. The department may require detailed information  
30 from each health maintenance organization participating in the  
31 procurement process, including information pertaining to

1 organizational status, experience in providing prepaid health  
 2 benefits, accessibility of services, financial stability of  
 3 the plan, quality of management services, accreditation  
 4 status, quality of medical services, network access and  
 5 adequacy, performance measurement, ability to meet the  
 6 department's reporting requirements, and the actuarial basis  
 7 of the proposed rates and other data determined by the  
 8 director to be necessary for the evaluation and selection of  
 9 health maintenance organization plans and negotiation of  
 10 appropriate rates for these plans. Upon receipt of proposals  
 11 by health maintenance organization plans and the evaluation of  
 12 those proposals, the department may enter into negotiations  
 13 with all of the plans or a subset of the plans, as the  
 14 department determines appropriate. Nothing shall preclude the  
 15 department from negotiating regional or statewide contracts  
 16 with health maintenance organization plans when this is  
 17 cost-effective and when the department determines that the  
 18 plan offers high value to enrollees.

19         d. The department may limit the number of HMOs that it  
 20 contracts with in each service area based on the nature of the  
 21 bids the department receives, the number of state employees in  
 22 the service area, or any unique geographical characteristics  
 23 of the service area. The department shall establish by rule  
 24 service areas throughout the state.

25         e. All persons participating in the state group  
 26 insurance program who are required to contribute towards a  
 27 total state group health premium shall be subject to the same  
 28 dollar contribution regardless of whether the enrollee enrolls  
 29 in the state group health insurance plan or in an HMO plan.

30         3. The department is authorized to negotiate and to  
 31 contract with specialty psychiatric hospitals for mental

1 health benefits, on a regional basis, for alcohol, drug abuse,  
2 and mental and nervous disorders. The department may  
3 establish, subject to the approval of the Legislature pursuant  
4 to subsection (5), any such regional plan upon completion of  
5 an actuarial study to determine any impact on plan benefits  
6 and premiums.

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

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

12 b. Does not currently meet the 25 percent  
13 non-Medicare/non-Medicaid enrollment composition requirement  
14 established by the Department of Health excluding participants  
15 enrolled in the state group insurance program;

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

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

22 e. Meets the minimum surplus requirements of s.  
23 641.225.

24  
25 The department is authorized to contract with HMOs that meet  
26 the requirements of sub-subparagraphs a.-d. prior to the open  
27 enrollment period for state employees. The department is not  
28 required to renew the contract with the HMOs as set forth in  
29 this paragraph more than twice. Thereafter, the HMOs shall be  
30 eligible to participate in the state group insurance program  
31

1 only through the request for proposal process described in  
2 subparagraph 2.

3           5. All enrollees in the state group health insurance  
4 plan or any health maintenance organization plan shall have  
5 the option of changing to any other health plan which is  
6 offered by the state within any open enrollment period  
7 designated by the department. Open enrollment shall be held at  
8 least once each calendar year.

9           6. When a contract between a treating provider and the  
10 state-contracted health maintenance organization is terminated  
11 for any reason other than for cause, each party shall allow  
12 any enrollee for whom treatment was active to continue  
13 coverage and care when medically necessary, through completion  
14 of treatment of a condition for which the enrollee was  
15 receiving care at the time of the termination, until the  
16 enrollee selects another treating provider, or until the next  
17 open enrollment period offered, whichever is longer, but no  
18 longer than 6 months after termination of the contract. Each  
19 party to the terminated contract shall allow an enrollee who  
20 has initiated a course of prenatal care, regardless of the  
21 trimester in which care was initiated, to continue care and  
22 coverage until completion of postpartum care. This does not  
23 prevent a provider from refusing to continue to provide care  
24 to an enrollee who is abusive, noncompliant, or in arrears in  
25 payments for services provided. For care continued under this  
26 subparagraph, the program and the provider shall continue to  
27 be bound by the terms of the terminated contract. Changes made  
28 within 30 days before termination of a contract are effective  
29 only if agreed to by both parties.

30           7. Any HMO participating in the state group insurance  
31 program shall submit health care utilization and cost data to

1 the department, in such form and in such manner as the  
 2 department shall require, as a condition of participating in  
 3 the program. The department shall enter into negotiations  
 4 with its contracting HMOs to determine the nature and scope of  
 5 the data submission and the final requirements, format,  
 6 penalties associated with noncompliance, and timetables for  
 7 submission. These determinations shall be adopted by rule.

8           8. The department may establish and direct, with  
 9 respect to collective bargaining issues, a comprehensive  
 10 package of insurance benefits that may include supplemental  
 11 health and life coverage, dental care, long-term care, vision  
 12 care, and other benefits it determines necessary to enable  
 13 state employees to select from among benefit options that best  
 14 suit their individual and family needs.

15           a. Based upon a desired benefit package, the  
 16 department shall issue a request for proposal for health  
 17 insurance providers interested in participating in the state  
 18 group insurance program, and the department shall issue a  
 19 request for proposal for insurance providers interested in  
 20 participating in the non-health-related components of the  
 21 state group insurance program. Upon receipt of all proposals,  
 22 the department may enter into contract negotiations with  
 23 insurance providers submitting bids or negotiate a specially  
 24 designed benefit package. Insurance providers offering or  
 25 providing supplemental coverage as of May 30, 1991, which  
 26 qualify for pretax benefit treatment pursuant to s. 125 of the  
 27 Internal Revenue Code of 1986, with 5,500 or more state  
 28 employees currently enrolled may be included by the department  
 29 in the supplemental insurance benefit plan established by the  
 30 department without participating in a request for proposal,  
 31 submitting bids, negotiating contracts, or negotiating a

1 specially designed benefit package. These contracts shall  
2 provide state employees with the most cost-effective and  
3 comprehensive coverage available; however, no state or agency  
4 funds shall be contributed toward the cost of any part of the  
5 premium of such supplemental benefit plans. With respect to  
6 dental coverage, the division shall include in any  
7 solicitation or contract for any state group dental program  
8 made after July 1, 2001, a comprehensive indemnity dental plan  
9 option which offers enrollees a completely unrestricted choice  
10 of dentists. If a dental plan is endorsed, or in some manner  
11 recognized as the preferred product, such plan shall include a  
12 comprehensive indemnity dental plan option which provides  
13 enrollees with a completely unrestricted choice of dentists.

14 b. Pursuant to the applicable provisions of s. 109.161  
15 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the  
16 department shall enroll in the pretax benefit program those  
17 state employees who voluntarily elect coverage in any of the  
18 supplemental insurance benefit plans as provided by  
19 sub-subparagraph a.

20 c. Nothing herein contained shall be construed to  
21 prohibit insurance providers from continuing to provide or  
22 offer supplemental benefit coverage to state employees as  
23 provided under existing agency plans.

24 Section 17. Section ~~110.12312~~, Florida Statutes, is  
25 renumbered as section 109.12312, Florida Statutes, and amended  
26 to read:

27 109.12312 ~~110.12312~~ Open enrollment period for  
28 retirees.--On or after July 1, 1997, the Department of  
29 Management Services shall provide for an open enrollment  
30 period for retired state employees who want to obtain health  
31 insurance coverage under ss. 109.123 ~~110.123~~ and 109.12315

1 ~~110.12315~~. The options offered during the open enrollment  
2 period must provide the same health insurance coverage as the  
3 coverage provided to active employees under the same premium  
4 payment conditions in effect for covered retirees, including  
5 eligibility for health insurance subsidy payments under s.  
6 112.363. A person who separates from employment subsequent to  
7 May 1, 1988, but whose date of retirement occurs on or after  
8 August 1, 1995, is eligible as of the first open enrollment  
9 period occurring after July 1, 1997, with an effective date of  
10 January 1, 1998, as long as the retiree's enrollment remains  
11 in effect.

12 Section 18. Section 110.12315, Florida Statutes, is  
13 renumbered as section 109.12315, Florida Statutes.

14 Section 19. Section 110.1232, Florida Statutes, is  
15 renumbered as section 109.1232, Florida Statutes, and amended  
16 to read:

17 109.1232 ~~110.1232~~ Health insurance coverage for  
18 persons retired under state-administered retirement systems  
19 before January 1, 1976, and for spouses.--Notwithstanding any  
20 provisions of law to the contrary, the Department of  
21 Management Services shall provide health insurance coverage  
22 under the state group insurance program for persons who  
23 retired before January 1, 1976, under any of the  
24 state-administered retirement systems and who are not covered  
25 by social security and for the spouses and surviving spouses  
26 of such retirees who are also not covered by social security.  
27 Such health insurance coverage shall provide the same benefits  
28 as provided to other retirees who are entitled to participate  
29 under s. 109.123 ~~110.123~~. The claims experience of this group  
30 shall be commingled with the claims experience of other  
31 members covered under s. 109.123 ~~110.123~~.

1           Section 20. Sections 110.1234, 110.1238, and 110.1239,  
2 Florida Statutes, are renumbered as sections 109.1234,  
3 109.1238, and 109.1239, Florida Statutes, respectively.

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

8           109.124 ~~110.124~~ Termination or transfer of employees  
9 aged 65 or older.--

10           (2) Whenever any employee who has attained age 65 is  
11 terminated by an agency or department solely because the  
12 employee attains age 65, the employee may seek ~~apply for~~  
13 relief from the action through voluntary binding arbitration  
14 pursuant to s. 109.240 ~~to the Public Employees Relations~~  
15 ~~Commission pursuant to s. 447.208.~~ The employee shall  
16 continue in employment pending the outcome of the voluntary  
17 binding arbitration application. If the employee continues in  
18 employment following a ~~the~~ decision of the voluntary binding  
19 arbitration panel commission, no further action shall be taken  
20 by the agency or department to terminate the employee for a  
21 period of 1 year following the date of the panel's ~~decision of~~  
22 ~~the commission~~ unless approved by the office ~~commission~~ upon a  
23 showing by the agency or department that the employee's  
24 capability has changed to a sufficient extent that he or she  
25 is no longer able to perform any job within such agency or  
26 department. An employee who does not request voluntary binding  
27 arbitration may apply for relief to the circuit court.

28           (4) If mutually agreed to by the employee and the  
29 agency or department, an employee who has attained age 65 may  
30 be reduced to a part-time position for the purpose of phasing  
31 the employee out of employment into retirement. Such an



1 arrangement may also be required by the voluntary binding  
2 arbitration panel or the court ~~Public Employees Relations~~  
3 ~~Commission~~ as part of its decision in any appeal arising out  
4 of this section. A reduction to a part-time position may be  
5 accompanied by an appropriate reduction in pay.

6 Section 22. Section 110.1245, Florida Statutes, is  
7 renumbered as section 109.1245, Florida Statutes, and amended  
8 to read:

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

11 109.1245 Savings sharing; bonus payments; other  
12 awards.--

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

20 (b) Each agency head shall recommend employees  
21 individually or by group to be awarded an amount of money,  
22 which amount shall be directly related to the cost savings  
23 realized. Each proposed award and amount of money must be  
24 approved by the Legislative Budgeting Commission.

25 (c) Each state agency, unless otherwise provided by  
26 law, may participate in the program. The Chief Justice shall  
27 have the authority to establish a savings sharing program for  
28 employees of the judicial branch within the parameters  
29 established in this section. The program shall apply to all  
30 employees within the Career Service System, the Selected  
31

1 Exempt Service, and comparable employees within the judicial  
2 branch.

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

8 1. The number of proposals made.

9 2. The number of awards made to employees or groups  
10 for adopted proposals.

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

13 4. The number of employees or groups recognized for  
14 superior accomplishments.

15 (2) In June of each year, bonuses shall be paid to  
16 employees from funds authorized by the Legislature in an  
17 appropriation specifically for bonuses. Each agency shall  
18 develop a plan for awarding lump-sum bonuses, which plan shall  
19 be submitted to and approved by the Office of Policy and  
20 Budget in the Executive Office of the Governor no later than  
21 September 15 of each year. Such plan shall include, at a  
22 minimum:

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

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

27 (c) Eligibility criteria as follows:

28 1. The employee must have been employed prior to July  
29 1 of that fiscal year and have been continuously employed  
30 through the date of distribution.

31

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

4           3. The employee must have had no disciplinary action  
5 during the period beginning July 1 through the date the bonus  
6 checks are distributed. Disciplinary actions include written  
7 reprimands, suspensions, dismissals, and involuntary or  
8 voluntary demotions that were associated with a disciplinary  
9 action.

10           4. The employee must have demonstrated a commitment to  
11 the agency mission by reducing the burden on those served,  
12 continually improving the way business is conducted, producing  
13 results in the form of increased outputs, and working to  
14 improve processes.

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

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

20           (d) An evaluation process of the employee's  
21 performance and eligibility to be performed no less than  
22 quarterly.

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

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

27           (g) A limitation on bonus distributions equal to 35  
28 percent of the agency's total authorized positions. This  
29 requirement may be waived by the Office of Policy and Budget  
30 in the Executive Office of the Governor upon a showing of  
31 exceptional circumstances.

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

7           (4) Each department head is authorized to incur  
8 expenditures to award suitable framed certificates, pins, or  
9 other tokens of recognition to state employees who have  
10 achieved increments of 5 years of satisfactory service in the  
11 agency or to the state, in appreciation and recognition of  
12 such service. Such awards may not cost in excess of \$100 each  
13 plus applicable taxes.

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

22           Section 23. Section 110.1246, Florida Statutes, is  
23 repealed.

24           Section 24. Sections 110.125, 110.126, and 110.127,  
25 Florida Statutes, are renumbered as sections 109.125, 109.126,  
26 and 109.127, Florida Statutes, respectively.

27           Section 25. Section 110.129, Florida Statutes, is  
28 renumbered as section 109.129, Florida Statutes, and amended  
29 to read:

30           109.129 ~~110.129~~ Services to political subdivisions.--  
31

1           (1) Upon request, the department may enter into a  
2 formal agreement ~~agreements~~ with any municipality or political  
3 subdivision of the state to furnish technical assistance to  
4 improve the system or methods of personnel administration of  
5 that ~~such~~ municipality or political subdivision. The  
6 department shall provide such assistance within the  
7 limitations of available staff, funds, and other resources.  
8 All municipalities and political subdivisions of the state are  
9 authorized to enter into such agreements.

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

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

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

27           109.131 ~~110.131~~ Other-personal-services temporary  
28 employment.--

29           (2) An agency may employ any qualified individual in  
30 other-personal-services temporary employment for 100 hours in  
31 any calendar month ~~1,040 hours within any 12-month~~ period. An

1 extension beyond a total of 100 hours in any calendar month  
 2 period ~~1,040 hours~~ within an agency for any individual or  
 3 category of individuals requires the approval of the  
 4 Governor's Office of Policy and Budget for good cause ~~agency~~  
 5 ~~head or a designee. Approval of extensions shall be made in~~  
 6 ~~accordance with criteria established by the department. Each~~  
 7 ~~agency shall maintain employee information as specified by the~~  
 8 ~~department regarding each extension of other personal services~~  
 9 ~~temporary employment.~~ The time limitation established by this  
 10 subsection does not apply to board members, ~~consultants,~~  
 11 ~~seasonal employees,~~ institutional clients employed as part of  
 12 their rehabilitation, or bona fide, degree-seeking students in  
 13 accredited secondary or postsecondary educational programs.

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

24 (6)

25 (c) Notwithstanding the provisions of this section,  
 26 the agency head or his or her designee may extend the  
 27 other-personal-services employment of a health care  
 28 practitioner licensed pursuant to chapter 458, chapter 459,  
 29 chapter 460, chapter 461, chapter 463, part I of chapter 464,  
 30 chapter 466, chapter 468, chapter 483, chapter 486, or chapter

31

1 490 beyond 2,080 hours per year and may employ such  
2 practitioner on an hourly or other basis.

3 Section 27. Section 110.151, Florida Statutes, is  
4 renumbered as section 109.151, Florida Statutes.

5 Section 28. Section 110.152, Florida Statutes, is  
6 renumbered as section 109.152, Florida Statutes, and  
7 subsection (4) of said section is amended to read:

8 109.152 ~~110.152~~ Adoption benefits for state or water  
9 management district employees; parental leave.--

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

16 Section 29. Section 110.15201, Florida Statutes, is  
17 renumbered as section 109.15201, Florida Statutes.

18 Section 30. Section 110.1521, Florida Statutes, is  
19 renumbered as section 109.1521, Florida Statutes, and amended  
20 to read:

21 109.1521 ~~110.1521~~ Short title.--Sections  
22 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the  
23 "Family Support Personnel Policies Act."

24 Section 31. Section 110.1522, Florida Statutes, is  
25 renumbered as section 109.1522, Florida Statutes, and amended  
26 to read:

27 109.1522 ~~110.1522~~ Model rule establishing family  
28 support personnel policies.--The Department of Management  
29 Services shall develop a model rule establishing family  
30 support personnel policies for all executive branch agencies,  
31 excluding the State University System. "Family support

1 personnel policies," for purposes of ss. 109.1521-109.1523  
2 ~~110.1521-110.1523~~, means personnel policies affecting  
3 employees' ability to both work and devote care and attention  
4 to their families and includes policies on flexible hour work  
5 schedules, compressed time, job sharing, part-time employment,  
6 maternity or paternity leave for employees with a newborn or  
7 newly adopted child, and paid and unpaid family or  
8 administrative leave for family responsibilities.

9 Section 32. Section 110.1523, Florida Statutes, is  
10 renumbered as section 109.1523, Florida Statutes, and amended  
11 to read:

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

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

26 109.161 ~~110.161~~ State employees; pretax benefits  
27 program.--

28 (6) The Department of Management Services is  
29 authorized to administer the pretax benefits program  
30 established for all employees so that employees may receive  
31



1 benefits that are not includable in gross income under the  
2 Internal Revenue Code of 1986. The pretax benefits program:

3 (a) Shall allow employee contributions to premiums for  
4 the state group insurance program administered under s.  
5 109.123 ~~110.123~~ to be paid on a pretax basis unless an  
6 employee elects not to participate.

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

10 109.171 ~~110.171~~ State employee telecommuting  
11 program.--

12 (2) The department shall:

13 (c) Identify state employees who are participating in  
14 a telecommuting program and their job classifications through  
15 the state personnel payroll information subsystem created  
16 under s. 109.116 ~~110.116~~.

17 Section 35. Section 110.181, Florida Statutes, is  
18 renumbered as section 109.181, Florida Statutes.

19 Section 36. Section 110.191, Florida Statutes, is  
20 renumbered as section 109.191, Florida Statutes, and amended  
21 to read:

22 109.191 ~~110.191~~ State employee leasing.--

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

1 (a) Create a separate budget entity from which leased  
2 employees shall be paid and transfer the positions authorized  
3 to be leased to that budget entity.

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

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

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

14 (e) Waive any requirement for automatic salary  
15 increases which may be contained in the General Appropriations  
16 Act.

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

30 Section 37. Section 110.201, Florida Statutes, is  
31 renumbered as section 109.201, Florida Statutes.

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

5 109.203 ~~110.203~~ Definitions.--For the purpose of this  
6 part and the personnel affairs of the state:

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

11 (18) "Promotion" means ~~the changing of~~ the  
12 classification of an employee to a class having a higher  
13 maximum salary; or ~~the changing of~~ the classification of an  
14 employee to a class having the same or a lower maximum salary  
15 but a higher level of responsibility as determined by the  
16 Department of Management Services.

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

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

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

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

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

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

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

16           (24) "Layoff" means termination of employment due to  
17 abolishment of positions necessitated by a shortage of funds  
18 or work, or a material change in the duties or organization of  
19 an agency, including the outsourcing or privatization of an  
20 activity or function previously performed by career service  
21 employees.

22           (28) "Firefighter" means a firefighter certified under  
23 chapter 633.

24           (29) "Law enforcement or correctional officer" means a  
25 law enforcement officer, special agent, correctional officer,  
26 correctional probationer officer, or institutional security  
27 specialist required to be certified under chapter 943.

28           Section 40. Section 109.2035, Florida Statutes, is  
29 created to read:

30           109.2035 Civil service classification and compensation  
31 program.--

1           (1) The Department of Management Services, in  
2 consultation with the Executive Office of the Governor and the  
3 Legislature, shall develop a civil service classification and  
4 compensation program. This program shall be developed for use  
5 by all state agencies and shall address all civil service  
6 classes.

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

8           (a) A position classification system using no more  
9 than 50 occupational groups and up to a six-class series  
10 structure for each occupation within an occupational group.  
11 Additional occupational groups may be established only by the  
12 Executive Office of the Governor after consultation with the  
13 Legislature.

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

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

18           (a) The classification system must significantly  
19 reduce the need to reclassify positions due to work assignment  
20 and organizational changes by decreasing the number of  
21 classification changes required.

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

25           (c) The classification system and pay plan must  
26 emphasize pay administration and job performance evaluation by  
27 management rather than use of the classification system to  
28 award salary increases.

29           (d) The pay administration system must contain  
30 provisions to allow managers the flexibility to move employees  
31

1 through the pay ranges and provide for salary increase  
2 additives and lump-sum bonuses.

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

7 (5) The Department of Management Services shall submit  
8 the proposed design of the civil service classification and  
9 compensation program to the Executive Office of the Governor,  
10 the presiding officers of the Legislature, and the appropriate  
11 legislative fiscal and substantive standing committees on or  
12 before December 1, 2001.

13 (6) The department shall establish, by rule,  
14 guidelines with respect to, and shall delegate, where  
15 appropriate, to the employing agencies the authority to  
16 administer, the following:

17 (a) Shift differentials.

18 (b) On-call fees.

19 (c) Hazardous-duty pay.

20 (d) Advanced appointment rates.

21 (e) Salary increase and decrease corrections.

22 (f) Lead worker pay.

23 (g) Temporary special duties pay.

24 (h) Trainer additive pay.

25 (i) Competitive area differentials.

26 (j) Coordinator pay.

27 (k) Critical market pay.

28  
29 The employing agency must use such pay additives as are  
30 appropriate within the guidelines established by the  
31 department and shall advise the department in writing of the

1 plan for implementing such pay additives prior to the  
2 implementation date. Any action by an employing agency to  
3 implement temporary special duties pay, competitive area  
4 differentials, or critical market pay may be implemented only  
5 after the department has reviewed and recommended such action;  
6 however, an employing agency may use temporary special duties  
7 pay for up to 3 months without prior review by the department.  
8 The department shall annually provide a summary report of the  
9 pay additives implemented pursuant to this section.

10 Section 41. Section 110.205, Florida Statutes, is  
11 renumbered as section 109.205, Florida Statutes, paragraphs  
12 (h) and (u) of subsection (2) and subsection (3) of said  
13 section are amended and subsections (7) and (8) are added to  
14 said section, and, effective July 1, 2001, paragraphs (v) and  
15 (w) are added to subsection (2) of said section, to read:

16 109.205 ~~110.205~~ Career service; exemptions.--

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

22 (h) All positions which are established for a limited  
23 period of time for the purpose of conducting a special study,  
24 project, or investigation and any person paid from an  
25 other-personal-services appropriation. Unless otherwise fixed  
26 by law, the salaries for such positions and persons shall be  
27 set in accordance with rules established by the employing  
28 agency for other-personal-services payments pursuant to s.  
29 109.131 ~~110.131~~.

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

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

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

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

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

29 (8) If an employee is transferred or otherwise moves  
30 from the Career Service System into the Selected Exempt  
31



1 Service on July 1, 2001, all of the employee's unused  
2 compensatory leave shall carry forward with the employee.

3 Section 42. Sections 110.207, 110.209, and 110.21,  
4 Florida Statutes, are renumbered as sections 109.207, 109.209,  
5 and 109.21, Florida Statutes, respectively.

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

8 Section 44. Section 110.211, Florida Statutes, is  
9 renumbered as section 109.211, Florida Statutes, and amended  
10 to read:

11 109.211 ~~110.211~~ Recruitment.--

12 (1) Recruiting shall be planned and carried out in a  
13 manner that assures open competition based upon current and  
14 projected employing agency needs, taking into consideration  
15 the number and types of positions to be filled and the labor  
16 market conditions, with special emphasis placed on recruiting  
17 efforts to attract minorities, women, or other groups that are  
18 underrepresented in the workforce of the employing agency.

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

22 (3) Recruiting shall provide efficiency in advertising  
23 and may be assisted by a contracted vendor responsible for  
24 maintenance of the personnel data. ~~The department shall~~  
25 ~~provide for executive-level recruitment and a recruitment~~  
26 ~~enhancement program designed to encourage individuals to seek~~  
27 ~~employment with state government and to promote better public~~  
28 ~~understanding of the state as an employer.~~

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

31

1           ~~(4)(5)~~ All recruitment literature ~~printed after July~~  
2 ~~1, 1979,~~ involving state position vacancies shall contain the  
3 phrase "An Equal Opportunity Employer/Affirmative Action  
4 Employer."

5           ~~(6) The department shall develop model recruitment~~  
6 ~~rules which may be used by employing agencies. Such rules~~  
7 ~~must be approved by the Administration Commission before their~~  
8 ~~adoption by the department. Employing agencies electing to~~  
9 ~~adopt recruitment rules that are inconsistent with the model~~  
10 ~~rules must consult with and submit such rules to the~~  
11 ~~department for review. Such rules must also be approved by~~  
12 ~~the Administration Commission before their adoption by the~~  
13 ~~employing agencies.~~

14           Section 45. Section 110.213, Florida Statutes, is  
15 renumbered as section 109.213, Florida Statutes, and amended  
16 to read:

17           109.213 ~~110.213~~ Selection.--

18           ~~(1) The department shall have the responsibility for~~  
19 ~~determining guidelines for selection procedures to be utilized~~  
20 ~~by the employing agencies.~~

21           ~~(2) Any selection procedure utilized in state~~  
22 ~~employment shall be designed to provide maximum validity,~~  
23 ~~reliability, and objectivity; shall be based on adequate job~~  
24 ~~analysis to ensure job relatedness; and shall measure the~~  
25 ~~relative ability, knowledge, and skill needed for entry to a~~  
26 ~~job.~~

27           ~~(1)(3)~~ Selection for appointment from among the most  
28 qualified candidates ~~available eligibles~~ shall be the sole  
29 responsibility of the employing agency. Effective July 1,  
30 2001, all new employees must successfully complete at least a  
31

1 1-year probationary period before attainment of permanent  
2 status.

3 (2) Selection shall reflect efficiency and simplicity  
4 in hiring procedures. The agency head or his or her designee  
5 shall be required to document the qualifications of the  
6 selected candidate to ensure that the candidate meets the  
7 minimum qualifications and possesses the requisite knowledge,  
8 skills, and abilities for the position. No other documentation  
9 or justification shall be required prior to selecting a  
10 candidate for a position.

11 ~~(4) The department shall develop model selection rules~~  
12 ~~that may be used by employing agencies. Such rules must be~~  
13 ~~approved by the Administration Commission before their~~  
14 ~~adoption by the department. Employing agencies electing to~~  
15 ~~adopt selection rules that are inconsistent with the model~~  
16 ~~rules shall consult with and submit such rules to the~~  
17 ~~department for review. Such rules must also be approved by the~~  
18 ~~Administration Commission before their adoption by the~~  
19 ~~employing agencies.~~

20 Section 46. Sections 110.2135, 110.215, and 110.217,  
21 Florida Statutes, are renumbered as sections 109.2135,  
22 109.215, and 109.217, Florida Statutes, respectively.

23 Section 47. Section 110.219, Florida Statutes, is  
24 renumbered as section 109.219, Florida Statutes, and paragraph  
25 (c) of subsection (5) of said section is amended, and,  
26 effective July 1, 2001, subsection (6) is added to said  
27 section, to read:

28 109.219 ~~110.219~~ Attendance and leave; general  
29 policies.--

30 (5) Rules shall be adopted by the department in  
31 cooperation and consultation with the agencies to implement

1 the provisions of this section; however, such rules must be  
2 approved by the Administration Commission prior to their  
3 adoption. Such rules must provide for, but need not be limited  
4 to:

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

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

9 Section 48. Section 110.221, Florida Statutes, is  
10 renumbered as section 109.221, Florida Statutes.

11 Section 49. Section 110.224, Florida Statutes, is  
12 renumbered as section 109.224, Florida Statutes, and amended  
13 to read:

14 109.224 ~~110.224~~ Public employee Review and performance  
15 evaluation planning system.--A public employee review and  
16 performance evaluation planning system shall be established as  
17 a basis to evaluate and improve for improving the performance  
18 of the state's workforce, to provide documentation in support  
19 of recommendations for salary increases, promotions,  
20 demotions, reassignments, or dismissals; to inform employees  
21 of strong and weak points in the employee's performance, to  
22 identify improvements expected, and current and future  
23 training needs, and to award lump-sum bonuses in accordance  
24 with s. 109.1245(2); and to assist in determining the order of  
25 layoff and reemployment.

26 (1) Upon original appointment, promotion, demotion, or  
27 reassignment, a job description of the position assigned each  
28 career service employee must be made available to the career  
29 service employee given a statement of the work expectations  
30 and performance standards applicable to the position. The job  
31 description may be made available in an electronic format.

1 ~~statement may be included in the position description or in a~~  
2 ~~separate document. An employee will not be required to meet~~  
3 ~~work expectations or performance standards that have not been~~  
4 ~~furnished in writing to the employee.~~

5 (2) Each employee must have a ~~employee's~~ performance  
6 evaluation must be reviewed at least annually, and the  
7 employee must receive a copy ~~an oral and written assessment~~ of  
8 his or her performance evaluation. The performance evaluation  
9 ~~assessment~~ may include a plan of ~~corrective~~ action for  
10 improvement of the employee's performance based on the work  
11 expectations or performance standards applicable to the  
12 position as determined by the agency head.

13 (3) The department may adopt rules to administer the  
14 public employee review and performance evaluation planning  
15 system which establish procedures for performance evaluation,  
16 ~~procedures to be followed in case of failure to meet~~  
17 ~~performance standards~~, review periods, and forms.

18 Section 50. Section 110.227, Florida Statutes, is  
19 renumbered as section 109.227, Florida Statutes, and  
20 subsection (2) of said section is amended, and, effective July  
21 1, 2001, subsections (1) and (3) and paragraph (a) of  
22 subsection (5) of said section are amended, present  
23 subsections (6) and (7) are amended and renumbered, and a new  
24 subsection (6) is added to said section, and, effective  
25 January 1, 2002, subsection (4) and paragraph (b) of  
26 subsection (5) of said section are amended, to read:

27 109.227 ~~110.227~~ Suspensions, dismissals, reductions in  
28 pay, demotions, layoffs, transfers, and grievances.--

29 (1) Any employee other than a law enforcement or  
30 correctional officer or a firefighter who has permanent status  
31 in the career service may only be suspended or dismissed for

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

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

1           (3)(a) With regard to law enforcement or correctional  
 2 officers or firefighters, when a layoff becomes necessary,  
 3 such layoff shall be conducted within the competitive area  
 4 identified by the agency head and approved by the Department  
 5 of Management Services. Such competitive area shall be  
 6 established taking into consideration the similarity of work;  
 7 the organizational unit, which may be by agency, department,  
 8 division, bureau, or other organizational unit; and the  
 9 commuting area for the work affected.

10           (b) Layoff procedures shall be developed to establish  
 11 the relative merit and fitness of employees and shall include  
 12 a formula for uniform application among potentially adversely  
 13 affected employees, or, with respect to law enforcement or  
 14 correctional officers or firefighters, among all employees in  
 15 the competitive area, taking into consideration the type of  
 16 appointment, the length of service, and the evaluations of the  
 17 employee's performance within the last 5 years of employment.

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

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

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



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

16 (6) For any alleged adverse agency action against an  
 17 employee, other than a law enforcement or correctional officer  
 18 or a firefighter, occurring on or after July 1, 2001, the  
 19 adversely affected employee bears the burden of proof to  
 20 establish by preponderance of the evidence that the agency  
 21 head abused his or her discretion in suspending, dismissing,  
 22 reducing the pay of, demoting, laying off, or transferring  
 23 that employee and that no reasonable cause existed for the  
 24 alleged adverse action taken by the agency, or that the  
 25 alleged adverse action was in violation of s. 109.233. For any  
 26 alleged adverse agency action against a law enforcement or  
 27 correctional officer or a firefighter occurring on or after  
 28 July 1, 2001, the agency must prove just cause for suspending,  
 29 dismissing, reducing the pay of, demoting, laying off, or  
 30 transferring that employee.

31

1            (7)~~(6)~~ A grievance process shall be available to  
 2 career service employees. A grievance is defined as the  
 3 dissatisfaction that occurs when an employee believes ~~thinks~~  
 4 ~~or feels~~ that any condition affecting the employee is unjust,  
 5 inequitable, or a hinderance to effective operation, or  
 6 creates a problem, except that an employee shall not have the  
 7 right to file a grievance against performance evaluations  
 8 unless the employee alleges ~~it is alleged~~ that the evaluation  
 9 is based on factors other than the employee's performance.  
 10 Claims of discrimination and sexual harassment, suspensions,  
 11 reductions in pay, transfers, layoffs, demotions, and  
 12 dismissals are not subject to the career service grievance  
 13 process.

14            (8)~~(7)~~ The department shall adopt rules for  
 15 administration of the grievance process for career service  
 16 employees. Such rules shall establish agency grievance  
 17 procedures, eligibility, filing deadlines, forms, and review  
 18 and evaluation governing the grievance process.

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

22            109.227 Suspensions, dismissals, reductions in pay,  
 23 demotions, layoffs, transfers, and grievances.--

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

1 conclusion that reasonable grounds exist for the suspension or  
2 dismissal. Subsequent to such notice, and prior to the date  
3 the action is to be taken, an affected law enforcement or  
4 correctional officer or a firefighter shall be given an  
5 opportunity to appear before the agency or official taking the  
6 action to answer orally and in writing the charges against him  
7 or her. The notice to the employee required by this paragraph  
8 may be delivered to the employee personally or may be sent by  
9 certified mail with return receipt requested. An ~~an~~ employee  
10 who is suspended or dismissed on or after January 1, 2002,  
11 shall be entitled to a hearing before the circuit court, or  
12 the aggrieved employee may request voluntary binding  
13 arbitration as provided in s. 109.240 ~~Public Employees~~  
14 ~~Relations Commission or its designated agent pursuant to s.~~  
15 ~~447.208 and rules adopted by the commission. Appeals based on~~  
16 ~~the protections provided by the Whistle-blower's Act, ss.~~  
17 ~~112.3187-112.31895, must be filed with the Commission on Human~~  
18 ~~Relations as provided for in that act.~~

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

22 109.233 ~~110.233~~ Political activities and unlawful acts  
23 prohibited.--

24 (4) As an individual, each employee retains all rights  
25 and obligations of citizenship provided in the Constitution  
26 and laws of the state and the Constitution and laws of the  
27 United States. However, no employee in the career service  
28 shall:

29 (a) Hold, or be a candidate for, public office while  
30 in the employment of the state or take any active part in a  
31 political campaign while on duty or within any period of time

1 during which the employee is expected to perform services for  
2 which he or she receives compensation from the state. However,  
3 when authorized by his or her agency head and approved by the  
4 department ~~of Management Services~~ as involving no interest  
5 which conflicts or activity which interferes with his or her  
6 state employment, an employee in the career service may be a  
7 candidate for or hold local public office. The department ~~of~~  
8 ~~Management Services~~ shall prepare and make available to all  
9 affected personnel who make such request a definite set of  
10 rules and procedures consistent with the provisions herein.

11 Section 53. Section 110.235, Florida Statutes, is  
12 renumbered as section 109.235, Florida Statutes, and  
13 subsection (1) of said section is amended to read:

14 109.235 ~~110.235~~ Training.--

15 (1) ~~It is the intent of the Legislature that State~~  
16 agencies shall implement training programs that encompass  
17 modern management principles, and that provide the framework  
18 to develop human resources through empowerment, training, and  
19 rewards for productivity enhancement; to continuously improve  
20 the quality of services; and to satisfy the expectations of  
21 the public.

22 Section 54. Section 109.237, Florida Statutes, is  
23 created to read:

24 109.237 Office of Employee Relations.--

25 (1) There is created within the Department of  
26 Management Services the Office of Employee Relations,  
27 hereinafter referred to as the "office." The Governor shall  
28 appoint an executive director of the office. The executive  
29 director shall serve at the pleasure of and report to the  
30 Governor. The executive director must be a member in good  
31 standing of The Florida Bar, have a minimum of 5 years of

1 legal experience, and be knowledgeable regarding and have a  
 2 background in the laws regarding state employees, the Career  
 3 Service System, employee bargaining units, and collective  
 4 bargaining. The executive director shall serve on a full-time  
 5 basis, and shall personally, or through a representative of  
 6 the office, carry out the purposes and functions of the office  
 7 in accordance with state and federal law. The executive  
 8 director shall be responsible for the administrative functions  
 9 of the office. The executive director shall make all planning,  
 10 personnel, and budgeting decisions with regard to the office.  
 11 The executive director shall be solely responsible for  
 12 administering the voluntary binding arbitration program  
 13 provided for by s. 109.240. The executive director, or the  
 14 executive director's designee, shall be responsible for  
 15 establishing and implementing a training and education program  
 16 for all the office's employees with regard to their duties and  
 17 responsibilities, procedural requirements, and applicable law,  
 18 as appropriate for each employee's position.

19 (2) The executive director shall employ a general  
 20 counsel and an administrative assistant to meet immediate  
 21 staffing needs. The executive director, general counsel, and  
 22 administrative assistant shall be paid annual salaries to be  
 23 fixed by law. Such salaries shall be paid in equal monthly  
 24 installments. The executive director, general counsel, and  
 25 administrative assistant shall be reimbursed for necessary  
 26 travel expenses, as provided in s. 112.061. Effective December  
 27 1, 2001, the executive director shall have the authority to  
 28 employ such personnel as is necessary to carry out the duties  
 29 and responsibilities of the office. These personnel shall be  
 30 paid annual salaries fixed by law, in equal monthly

31

1 installments, and such personnel shall be reimbursed for  
2 necessary travel expenses as provided in s. 112.061.

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

8 (4) The Department of Management Services shall  
9 provide the necessary office space, furniture, equipment, and  
10 supplies necessary for the startup of the office. The  
11 department shall further provide administrative support and  
12 service to the office to the extent requested by the executive  
13 director within the available resources of the department. The  
14 executive director may request the assistance of the Inspector  
15 General of the Department of Management Services in providing  
16 auditing services, and the Office of General Counsel of the  
17 department may provide assistance in rulemaking and other  
18 matters as needed to assist the office.

19 (5) The office shall make such expenditures, including  
20 expenditures for personal services and rent at the seat of  
21 government and elsewhere, for law books, books of reference,  
22 periodicals, furniture, equipment, and supplies, and for  
23 printing and binding, as may be necessary in exercising its  
24 authority and powers and carrying out its duties and  
25 responsibilities. All such expenditures by the office shall be  
26 allowed and paid upon the presentation of itemized vouchers  
27 therefor approved by the executive director.

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

30 (7) The office shall maintain and keep open during  
31 reasonable business hours an office at which its public

1 records shall be kept. The office may conduct hearings at any  
2 place within the state.

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

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

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

12 (11) Any hearing held by the office under this part  
13 shall be conducted in accordance with the provisions of ss.  
14 120.569 and 120.57 by an employee of the office, or a person  
15 designated by the executive director, who is a member in good  
16 standing of The Florida Bar.

17 Section 55. (1) Except as otherwise provided,  
18 effective January 1, 2002, section 109.240, Florida Statutes,  
19 is created to read:

20 109.240 Voluntary binding arbitration.--

21 (1) Upon receipt of notice of an adverse agency  
22 action, any permanent career service employee may request  
23 voluntary binding arbitration administered by the Office of  
24 Employee Relations. As used in this section, "adverse agency  
25 action" means the suspension, dismissal, reduction in pay,  
26 demotion, layoff, or transfer of an employee. Any eligible  
27 employee choosing to participate in voluntary binding  
28 arbitration must file a written request for arbitration with  
29 the office no later than 14 days after the receipt of notice  
30 of the adverse agency action.

31

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

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

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

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

12           (3) Upon receipt of the arbitration request, the  
13 office shall provide written notice to the agency against  
14 which a request is made regarding the employee request for  
15 binding arbitration. The agency must participate in the  
16 requested binding arbitration. Binding arbitration shall not  
17 be conducted pursuant to this section unless the employee  
18 requests it.

19           (4)(a) The employee bears the burden of establishing  
20 by a preponderance of the evidence that the agency action  
21 complained of was adverse, that the agency head abused his or  
22 her discretion in taking the adverse agency action, and that  
23 no reasonable cause existed for the adverse agency action.  
24 This paragraph does not apply to law enforcement or  
25 correctional officers or firefighters.

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

29           (5)(a) The voluntary binding arbitration shall be  
30 heard and determined by an employee panel that consists of  
31 three randomly selected career service employees chosen by the



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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 3. Filling vacancies.

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

29 5. Making an electronic recording of each arbitration  
30 proceeding, including preconference hearings, even when a  
31

1 party chooses to make a stenographic recording of the  
2 arbitration proceeding at that party's expense.

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

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

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

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

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

1           (c) At all arbitration proceedings, the parties may  
2 present oral and written testimony, present witnesses and  
3 evidence relevant to the dispute, cross-examine witnesses, and  
4 be represented by counsel. The arbitrator shall record the  
5 arbitration hearing and shall have the power to administer  
6 oaths.

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

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

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

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

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

25           2. Discovery.

26           3. Offering evidence.

27           4. Calling and excluding witnesses.

28           5. Submitting evidence by affidavit.

29           6. Attendance of the parties and witnesses.

30           7. The order of proceedings.

31

1           (b) The office may adopt additional rules necessary to  
2 implement this section.

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

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

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

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

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

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

1           (2) For purposes of rulemaking by the Office of  
2 Employee Relations, subsection (11) of s. 109.240, Florida  
3 Statutes, as created by this section, shall take effect July  
4 1, 2001.

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

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

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

24           109.402 ~~110.402~~ Senior Management Service; creation,  
25 coverage.--

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

31



1 Section 58. Section 110.403, Florida Statutes, is  
2 renumbered as section 109.403, Florida Statutes, and amended  
3 to read:

4 109.403 ~~110.403~~ Powers and duties of the Department of  
5 Management Services.--

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

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

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

30 (c) A classification plan and a salary and benefit  
31 plan that provides appropriate incentives for the recruitment

1 and retention of outstanding management personnel and provides  
2 for salary increases based on performance.

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

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

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

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

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

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

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

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

31

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

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

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

26 (5) The department ~~of Management Services~~ shall adopt,  
27 by rule, procedures for Senior Management Service employees  
28 that require disclosure to the agency head of any application  
29 for or offer of employment, gift, contractual relationship, or  
30 financial interest with any individual, partnership,  
31 association, corporation, utility, or other organization,

1 whether public or private, doing business with or subject to  
2 regulation by the agency.

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

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

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

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

28 Section 60. Section 110.405, Florida Statutes, is  
29 renumbered as section 109.405, Florida Statutes.

30 Section 61. Section 110.406, Florida Statutes, is  
31 renumbered as section 109.406, Florida Statutes, and paragraph

1 (a) of subsection (2) and subsection (3) of said section are  
2 amended to read:

3 109.406 ~~110.406~~ Senior Management Service; data  
4 collection.--

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

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

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

14 Section 62. Section 110.501, Florida Statutes, is  
15 renumbered as section 109.501, Florida Statutes.

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

19 109.502 ~~110.502~~ Scope of act; status of volunteers.--

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

29 (3) Every department or agency utilizing the services  
30 of volunteers is hereby authorized to provide such incidental  
31 reimbursement or benefit consistent with the provisions of s.

1 109.504 ~~110.504~~, including transportation costs, lodging, and  
2 subsistence, recognition, and other accommodations as the  
3 department or agency deems necessary to assist, recognize,  
4 reward, or encourage volunteers in performing their functions.  
5 No department or agency shall expend or authorize an  
6 expenditure therefor in excess of the amount provided for to  
7 the department or agency by appropriation in any fiscal year.

8 Section 64. Sections 110.503 and 110.504, Florida  
9 Statutes, are renumbered as sections 109.503 and 109.504,  
10 Florida Statutes, respectively.

11 Section 65. Section 110.601, Florida Statutes, is  
12 renumbered as section 109.601, Florida Statutes, and amended  
13 to read:

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

28 Section 66. Section 110.602, Florida Statutes, is  
29 renumbered as section 109.602, Florida Statutes, and amended  
30 to read:

31

1           109.602 ~~110.602~~ Selected Exempt Service; creation,  
 2 coverage.--The Selected Exempt Service is created as a  
 3 separate system of personnel administration for select exempt  
 4 positions. Such positions shall include, and shall be limited  
 5 to, those positions which are exempt from the Career Service  
 6 System pursuant to s. 109.205(2) and (5)~~110.205(2) and (5)~~  
 7 and for which the salaries and benefits are set by the  
 8 department in accordance with the rules of the Selected Exempt  
 9 Service. The department shall designate all positions included  
 10 in the Selected Exempt Service as either  
 11 managerial/policymaking, professional, or  
 12 nonmanagerial/nonpolicymaking. In no event shall the number of  
 13 positions included in the Selected Exempt Service, excluding  
 14 those positions designated as professional or  
 15 nonmanagerial/nonpolicymaking, exceed 1.5 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 Selected Exempt Service which would exceed the  
 19 limitation established in this section. The department shall  
 20 report that the limitation has been reached to the Governor,  
 21 the President of the Senate, and the Speaker of the House of  
 22 Representatives, as soon as practicable after such event  
 23 occurs.

24           Section 67. Effective July 1, 2001, section 109.602,  
 25 Florida Statutes, as renumbered and amended by this act, is  
 26 amended to read:

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

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

18 Section 68. Sections 110.603 and 110.604, Florida  
19 Statutes, are renumbered as sections 109.603 and 109.604,  
20 Florida Statutes, respectively.

21 Section 69. Section 110.605, Florida Statutes, is  
22 renumbered as section 109.605, Florida Statutes, and  
23 subsection (1) of said section is amended to read:

24 109.605 ~~110.605~~ Powers and duties; personnel rules,  
25 records, reports, and performance appraisal.--

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



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

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

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

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

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

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

30 109.606 ~~110.606~~ Selected Exempt Service; data  
31 collection.--

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

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

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

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

18 Section 71. (1) Sections 109.105 through 109.191,  
19 Florida Statutes, are designated as part I of chapter 109,  
20 Florida Statutes, to be entitled "General State Employment  
21 Provisions."

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

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

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

31

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

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

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

11           (2)

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

21           (3)

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

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

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

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

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

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

31

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

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

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

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

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

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

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

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

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

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

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

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

28           (3) Unless otherwise provided by law, the Secretary of  
29 Community Affairs shall appoint the directors or executive  
30 directors of any commission or council assigned to the  
31 department, who shall serve at his or her pleasure as provided

1 for division directors in s. 109.205 ~~110.205~~. The appointment  
2 or termination by the secretary will be done with the advice  
3 and consent of the commission or council; and the director or  
4 executive director may employ, subject to departmental rules  
5 and procedures, such personnel as may be authorized and  
6 necessary.

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

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

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

18 Section 75. Paragraph (d) of subsection (1), paragraph  
19 (h) of subsection (2), paragraphs (d), (f), (h), and (i) of  
20 subsection (3), paragraphs (c) and (d) of subsection (4), and  
21 subsection (5) of section 20.23, Florida Statutes, are amended  
22 to read:

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

26 (1)

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

1 sector. When the salary of any assistant secretary exceeds  
2 the limits established in part III of chapter 109 ~~110~~, the  
3 Governor shall approve said salary.

4 (2)

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

18 (3)

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

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

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

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

29 d. Performing other activities of a statewide nature.

30 2. The following offices are established and shall be  
31 headed by a manager, each of whom shall be appointed by and

1 serve at the pleasure of the secretary. The positions shall be  
2 classified at a level equal to a division director:

- 3 a. The Office of Administration;
- 4 b. The Office of Policy Planning;
- 5 c. The Office of Design;
- 6 d. The Office of Highway Operations;
- 7 e. The Office of Right-of-Way;
- 8 f. The Office of Toll Operations;
- 9 g. The Office of Information Systems; and
- 10 h. The Office of Motor Carrier Compliance.

11 3. Other offices may be established in accordance with  
12 s. 20.04(7). The heads of such offices are exempt from part II  
13 of chapter 109 ~~110~~. No office or organization shall be created  
14 at a level equal to or higher than a division without specific  
15 legislative authority.

16 4. During the construction of a major transportation  
17 improvement project or as determined by the district  
18 secretary, the department may provide assistance to a business  
19 entity significantly impacted by the project if the entity is  
20 a for-profit entity that has been in business for 3 years  
21 prior to the beginning of construction and has direct or  
22 shared access to the transportation project being constructed.  
23 The assistance program shall be in the form of additional  
24 guarantees to assist the impacted business entity in receiving  
25 loans pursuant to Title 13 C.F.R. part 120. However, in no  
26 instance shall the combined guarantees be greater than 90  
27 percent of the loan. The department shall adopt rules to  
28 implement this subparagraph.

29 (f)1. Within the central office there is created an  
30 Office of Management and Budget. The head of the Office of  
31 Management and Budget is responsible to the Assistant



1 Secretary for Finance and Administration and is exempt from  
2 part II of chapter 109 ~~110~~.

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

- 5           a. Preparation of the work program;
- 6           b. Preparation of the departmental budget; and
- 7           c. Coordination of related policies and procedures.

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

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

1 audits of contracts and agreements between the department and  
2 private entities or other governmental entities. The inspector  
3 general shall give priority to reviewing major parts of the  
4 department's accounting system and central office monitoring  
5 function to determine whether such systems effectively ensure  
6 accountability and compliance with all laws, rules, policies,  
7 and procedures applicable to the operation of the department.  
8 The inspector general shall also give priority to assessing  
9 the department's management information systems as required by  
10 s. 282.318. The internal audit function shall use the  
11 necessary expertise, in particular, engineering, financial,  
12 and property appraising expertise, to independently evaluate  
13 the technical aspects of the department's operations. The  
14 inspector general shall have access at all times to any  
15 personnel, records, data, or other information of the  
16 department and shall determine the methods and procedures  
17 necessary to carry out his or her duties. The inspector  
18 general is responsible for audits of departmental operations  
19 and for audits of consultant contracts and agreements, and  
20 such audits shall be conducted in accordance with generally  
21 accepted governmental auditing standards. The inspector  
22 general shall annually perform a sufficient number of audits  
23 to determine the efficiency and effectiveness, as well as  
24 verify the accuracy of estimates and charges, of contracts  
25 executed by the department with private entities and other  
26 governmental entities. The inspector general has the sole  
27 responsibility for the contents of his or her reports, and a  
28 copy of each report containing his or her findings and  
29 recommendations shall be furnished directly to the secretary  
30 and the commission.  
31

1           2. In addition to the authority and responsibilities  
2 herein provided, the inspector general is required to report  
3 to the:

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

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

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

30           2. The comptroller is the chief financial officer of  
31 the department and must be a proven, effective administrator

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

26           3. The department shall by rule or internal management  
 27 memoranda as required by chapter 120 provide for the  
 28 maintenance by the comptroller of financial records and  
 29 accounts of the department as will afford a full and complete  
 30 check against the improper payment of bills and provide a  
 31

- 1 system for the prompt payment of the just obligations of the  
2 department, which records must at all times disclose:
- 3 a. The several appropriations available for the use of  
4 the department;
  - 5 b. The specific amounts of each such appropriation  
6 budgeted by the department for each improvement or purpose;
  - 7 c. The apportionment or division of all such  
8 appropriations among the several counties and districts, when  
9 such apportionment or division is made;
  - 10 d. The amount or portion of each such apportionment  
11 against general contractual and other liabilities then  
12 created;
  - 13 e. The amount expended and still to be expended in  
14 connection with each contractual and other obligation of the  
15 department;
  - 16 f. The expense and operating costs of the various  
17 activities of the department;
  - 18 g. The receipts accruing to the department and the  
19 distribution thereof;
  - 20 h. The assets, investments, and liabilities of the  
21 department; and
  - 22 i. The cash requirements of the department for a  
23 36-month period.
- 24 4. The comptroller shall maintain a separate account  
25 for each fund administered by the department.
- 26 5. The comptroller shall perform such other related  
27 duties as designated by the department.
- 28 (4)
- 29 (c) Each district secretary may appoint a district  
30 director for planning and programming, a district director for  
31

1 production, and a district director for operations. These  
2 positions are exempt from part II of chapter 109 ~~110~~.

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

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

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

18 20.255 Department of Environmental Protection.--There  
19 is created a Department of Environmental Protection.

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

- 28 1. Office of Chief of Staff,
- 29 2. Office of General Counsel,
- 30 3. Office of Inspector General,
- 31 4. Office of External Affairs,

- 1           5. Office of Legislative and Government Affairs, and
- 2           6. Office of Greenways and Trails.

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

10

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

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

19           20.315 Department of Corrections.--There is created a  
20 Department of Corrections.

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

1 recommend funding for the secure and efficient operation of  
2 the state correctional system.

3 (b) The secretary shall appoint a general counsel and  
4 an inspector general, who are exempt from part II of chapter  
5 109 ~~110~~ and are included in the Senior Management Service.

6 (6) FLORIDA CORRECTIONS COMMISSION.--

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

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

26 24.105 Powers and duties of department.--The  
27 department shall:

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

30 (d) The department shall establish and maintain a  
31 personnel program for its employees, including a personnel



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

26 Section 79. Paragraph (d) of subsection (4) of section  
 27 24.122, Florida Statutes, is amended to read:

28 24.122 Exemption from taxation; state preemption;  
 29 inapplicability of other laws.--

30 (4) Any state or local law providing any penalty,  
 31 disability, restriction, or prohibition for the possession,

1 manufacture, transportation, distribution, advertising, or  
2 sale of any lottery ticket, including chapter 849, shall not  
3 apply to the tickets of the state lottery operated pursuant to  
4 this act; nor shall any such law apply to the possession of a  
5 ticket issued by any other government-operated lottery. In  
6 addition, activities of the department under this act are  
7 exempt from the provisions of:

8 (d) Section 109.131 ~~110.131~~, relating to other  
9 personal services.

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

12 68.087 Exemptions to civil actions.--

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

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

24 104.31 Political activities of state, county, and  
25 municipal officers and employees.--

26 (3) Nothing contained in this section or in any county  
27 or municipal charter shall be deemed to prohibit any public  
28 employee from expressing his or her opinions on any candidate  
29 or issue or from participating in any political campaign  
30 during the employee's off-duty hours, so long as such

31

1 activities are not in conflict with the provisions of  
2 subsection (1) or s. 109.233 ~~110.233~~.

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

5 106.082 Commissioner of Agriculture candidates;  
6 campaign contribution limits.--

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

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

26 106.24 Florida Elections Commission; membership;  
27 powers; duties.--

28 (4) The commission shall appoint an executive  
29 director, who shall serve under the direction, supervision,  
30 and control of the commission. The executive director, with  
31 the consent of the commission, shall employ such staff as are

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

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

12 112.044 Public employers, employment agencies, labor  
13 organizations; discrimination based on age prohibited;  
14 exceptions; remedy.--

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

27 Section 85. Section 112.0805, Florida Statutes, is  
28 amended to read:

29 112.0805 Employer notice of insurance eligibility to  
30 employees who retire.--Any employer who provides insurance  
31 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify

1 those employees who retire of their eligibility to participate  
2 in either the same group insurance plan or self-insurance plan  
3 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the  
4 insurance coverage as provided by this law.

5 Section 86. Paragraph (a) of subsection (9) of section  
6 112.313, Florida Statutes, is amended to read:

7 112.313 Standards of conduct for public officers,  
8 employees of agencies, and local government attorneys.--

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

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

16 2. As used in this paragraph:

17 a. "Employee" means:

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

25 (II) The Auditor General, the Sergeant at Arms and  
26 Secretary of the Senate, and the Sergeant at Arms and Clerk of  
27 the House of Representatives.

28 (III) The executive director of the Legislative  
29 Committee on Intergovernmental Relations and the executive  
30 director and deputy executive director of the Commission on  
31 Ethics.

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

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

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

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

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

28 3. No member of the Legislature, appointed state  
29 officer, or statewide elected officer shall personally  
30 represent another person or entity for compensation before the  
31 government body or agency of which the individual was an

1 officer or member for a period of 2 years following vacation  
2 of office. No member of the Legislature shall personally  
3 represent another person or entity for compensation during his  
4 or her term of office before any state agency other than  
5 judicial tribunals or in settlement negotiations after the  
6 filing of a lawsuit.

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

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

16         6. This paragraph is not applicable to:

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

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

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

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

28         e. Any appointed state officer whose term of office  
29 began before January 1, 1995, unless reappointed to that  
30 office on or after January 1, 1995.

31

1           Section 87. Paragraph (a) of subsection (5) of section  
2 112.3189, Florida Statutes, is amended to read:

3           112.3189 Investigative procedures upon receipt of  
4 whistle-blower information from certain state employees.--

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

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



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

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

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

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

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

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

16           112.363 Retiree health insurance subsidy.--

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

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

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

13 112.363 Retiree health insurance subsidy.--

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

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

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

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

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

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

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

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

18 121.0515 Special risk membership.--

19 (3) PROCEDURE FOR DESIGNATING.--

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

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

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

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

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

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

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

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

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

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

31

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

4           3. The Chancellor and the university presidents.

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

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

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

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

22           (b) Recruitment and examination.

23           (c) Time reporting.

24           (d) Collective bargaining.

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

27           216.011 Definitions.--

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

31

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

3           216.251 Salary appropriations; limitations.--

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

7           1. Within the classification and pay plans provided  
8 for in chapter 109 ~~110~~.

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

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

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

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

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

26           Section 97. Section 231.381, Florida Statutes, is  
27 amended to read:

28           231.381 Transfer of sick leave and annual leave.--In  
29 implementing the provisions of ss. 230.23(4)(n) and  
30 402.22(1)(d), educational personnel in Department of Children  
31 and Family Services residential care facilities who are

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

14 Section 98. Paragraph (c) of subsection (1) of section  
15 235.217, Florida Statutes, is amended to read:

16 235.217 SMART (Soundly Made, Accountable, Reasonable,  
17 and Thrifty) Schools Clearinghouse.--

18 (1)

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

25 Section 99. Paragraph (f) of subsection (3) of section  
26 240.209, Florida Statutes, is amended to read:

27 240.209 Board of Regents; powers and duties.--

28 (3) The board shall:

29 (f) Establish and maintain systemwide personnel  
30 programs for all State University System employees, including  
31 a systemwide personnel classification and pay plan,



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

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

28 240.2111 Employee recognition program.--

29 (1)(a) Notwithstanding the provisions of s. 109.1245  
 30 ~~110.1245~~, the Board of Regents and each university shall

31

1 promulgate rules for an employee recognition program which  
2 provides for the following components:

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

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

16 Section 101. Section 240.507, Florida Statutes, is  
17 amended to read:

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

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

29 241.002 Duties of the Department of Education.--The  
30 duties of the Department of Education concerning distance  
31 learning include, but are not limited to, the duty to:

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

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

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

13           242.331 Florida School for the Deaf and the Blind;  
14 board of trustees.--

15           (6) The board of trustees shall:

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

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

27           260.0125 Limitation on liability of private landowners  
28 whose property is designated as part of the statewide system  
29 of greenways and trails.--

30           (2) Any private landowner who consents to designation  
31 of his or her land as part of the statewide system of

1 greenways and trails pursuant to s. 260.016(2)(d) without  
2 compensation shall be considered a volunteer, as defined in s.  
3 109.501 ~~110.501~~, and shall be covered by state liability  
4 protection pursuant to s. 768.28, including s. 768.28(9).

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

7 281.02 Powers and duties of the Department of  
8 Management Services, Florida Capitol Police.--The Department  
9 of Management Services, Florida Capitol Police, has the  
10 following powers and duties:

11 (4) To employ:

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

17 Section 106. Section 287.175, Florida Statutes, is  
18 amended to read:

19 287.175 Penalties.--A violation of this part or a rule  
20 adopted hereunder, pursuant to applicable constitutional and  
21 statutory procedures, constitutes misuse of public position as  
22 defined in s. 112.313(6), and is punishable as provided in s.  
23 112.317. The Comptroller shall report incidents of suspected  
24 misuse to the Commission on Ethics, and the commission shall  
25 investigate possible violations of this part or rules adopted  
26 hereunder when reported by the Comptroller, notwithstanding  
27 the provisions of s. 112.324. Any violation of this part or a  
28 rule adopted hereunder shall be presumed to have been  
29 committed with wrongful intent, but such presumption is  
30 rebuttable. Nothing in this section is intended to deny  
31

1 rights provided to career service employees by s. 109.227  
2 ~~110.227~~.

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

5 288.708 Executive director; employees.--

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

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

12 295.07 Preference in appointment and retention.--

13 (4) The following positions are exempt from this  
14 section:

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

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

24 296.04 Administrator; duties and qualifications;  
25 responsibilities.--

26 (3) The administrator shall be a resident of the state  
27 at the time of entering into employment in the position. The  
28 position shall be assigned to the Selected Exempt Service  
29 under part V of chapter 109 ~~110~~. The director shall afford  
30 applicants veterans' preference in appointment in accordance  
31 with ss. 295.07 and 295.085. In addition, the administrator

1 must have at least a 4-year degree from an accredited  
2 university or college and 3 years of administrative experience  
3 in a health care facility, or any equivalent combination of  
4 experience, training, and education totaling 7 years in work  
5 relating to administration of a health care facility.

6 (4)

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

11 Section 110. Subsection (1) and paragraph (b) of  
12 subsection (4) of section 296.34, Florida Statutes, are  
13 amended to read:

14 296.34 Administrator; qualifications, duties, and  
15 responsibilities.--

16 (1) The director shall appoint an administrator of the  
17 home who shall be the chief executive of the home. The  
18 position shall be assigned to the Selected Exempt Service  
19 under part V of chapter 109 ~~110~~. The director shall give  
20 preference in appointment as provided in ss. 295.07 and  
21 295.085 to applicants for the position of administrator.

22 (4)

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

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

29 311.07 Florida seaport transportation and economic  
30 development funding.--

31

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

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

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

30           (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY  
31 COUNCIL.--

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

3 1. Enter into contracts with individuals, private  
4 corporations, and public agencies.

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

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

9 4. Establish bylaws and adopt rules pursuant to ss.  
10 120.536(1) and 120.54 to implement provisions of law  
11 conferring powers or duties upon it.

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

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

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

29 8. Adopt an agency strategic plan that provides the  
30 priority directions the agency will take to carry out its  
31 mission within the context of the state comprehensive plan and



1 any other statutory mandates and directions given to the  
2 agency.

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

5 343.74 Powers and duties.--

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

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

12 381.85 Biomedical and social research.--

13 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL  
14 RESEARCH.--

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

19 Section 115. Section 393.0657, Florida Statutes, is  
20 amended to read:

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

1 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be  
2 required to be refingerprinted or rescreened in order to  
3 comply with any direct service provider screening or  
4 fingerprinting requirements.

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

7 400.19 Right of entry and inspection.--

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

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

27 400.953 Background screening of home medical equipment  
28 provider personnel.--The agency shall require employment  
29 screening as provided in chapter 435, using the level 1  
30 standards for screening set forth in that chapter, for home  
31 medical equipment provider personnel.

1           (3) Proof of compliance with the screening  
 2 requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.  
 3 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.  
 4 464.008, or s. 985.407 or this part must be accepted in lieu  
 5 of the requirements of this section if the person has been  
 6 continuously employed in the same type of occupation for which  
 7 he or she is seeking employment without a breach in service  
 8 that exceeds 180 days, the proof of compliance is not more  
 9 than 2 years old, and the person has been screened by the  
 10 Department of Law Enforcement. An employer or contractor shall  
 11 directly provide proof of compliance to another employer or  
 12 contractor, and a potential employer or contractor may not  
 13 accept any proof of compliance directly from the person  
 14 requiring screening. Proof of compliance with the screening  
 15 requirements of this section shall be provided, upon request,  
 16 to the person screened by the home medical equipment provider.

17           Section 118. Section 402.3057, Florida Statutes, is  
 18 amended to read:

19           402.3057 Persons not required to be refingerprinted or  
 20 rescreened.--Any provision of law to the contrary  
 21 notwithstanding, human resource personnel who have been  
 22 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 23 402, and 409, and teachers and noninstructional personnel who  
 24 have been fingerprinted pursuant to chapter 231, who have not  
 25 been unemployed for more than 90 days thereafter, and who  
 26 under the penalty of perjury attest to the completion of such  
 27 fingerprinting or screening and to compliance with the  
 28 provisions of this section and the standards for good moral  
 29 character as contained in such provisions as ss. 109.1127(3)  
 30 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 31 409.175(4), shall not be required to be refingerprinted or

1 rescreened in order to comply with any caretaker screening or  
2 fingerprinting requirements.

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

5 402.55 Management fellows program.--

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

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

11 402.731 Department of Children and Family Services  
12 certification programs for employees and service providers;  
13 employment provisions for transition to community-based  
14 care.--

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

27 Section 121. Section 409.1757, Florida Statutes, is  
28 amended to read:

29 409.1757 Persons not required to be refingerprinted or  
30 rescreened.--Any provision of law to the contrary  
31 notwithstanding, human resource personnel who have been

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

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

15 440.102 Drug-free workplace program requirements.--The  
16 following provisions apply to a drug-free workplace program  
17 implemented pursuant to law or to rules adopted by the Agency  
18 for Health Care Administration:

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

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

31

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

3           440.4416 Workers' Compensation Oversight Board.--

4           (3) EXECUTIVE DIRECTOR; EXPENSES.--

5           (a) The board shall appoint an executive director to  
6 direct and supervise the administrative affairs and general  
7 management of the board who shall be subject to the provisions  
8 of part V ~~IV~~ of chapter 109 ~~110~~. The executive director may  
9 employ persons and obtain technical assistance as authorized  
10 by the board and shall attend all meetings of the board. Board  
11 employees shall be exempt from part II of chapter 109 ~~110~~.

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

14           443.171 Division and commission; powers and duties;  
15 rules; advisory council; records and reports; proceedings;  
16 state-federal cooperation.--

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

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

31           447.207 Commission; powers and duties.--

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

4           (a) Section 109.124 ~~110.124~~, relating to termination  
5 or transfer of State Career Service System employees aged 65  
6 or older.

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

9           456.048 Financial responsibility requirements for  
10 certain health care practitioners.--

11           (2) The board or department may grant exemptions upon  
12 application by practitioners meeting any of the following  
13 criteria:

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

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

26           471.038 Florida Engineers Management Corporation.--

27           (3) The Florida Engineers Management Corporation is  
28 created to provide administrative, investigative, and  
29 prosecutorial services to the board in accordance with the  
30 provisions of chapter 455 and this chapter. The management  
31 corporation may hire staff as necessary to carry out its

1 functions. Such staff are not public employees for the  
2 purposes of chapter 109 ~~110~~ or chapter 112, except that the  
3 board of directors and the staff are subject to the provisions  
4 of s. 112.061. The provisions of s. 768.28 apply to the  
5 management corporation, which is deemed to be a corporation  
6 primarily acting as an instrumentality of the state, but which  
7 is not an agency within the meaning of s. 20.03(11). The  
8 management corporation shall:

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

11 (b) Provide administrative, investigative, and  
12 prosecutorial services to the board in accordance with the  
13 provisions of chapter 455, this chapter, and the contract  
14 required by this section.

15 (c) Receive, hold, and administer property and make  
16 only prudent expenditures directly related to the  
17 responsibilities of the board, and in accordance with the  
18 contract required by this section.

19 (d) Be approved by the board and the department to  
20 operate for the benefit of the board and in the best interest  
21 of the state.

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

24 (f) Have a seven-member board of directors, five of  
25 whom are to be appointed by the board and must be registrants  
26 regulated by the board and two of whom are to be appointed by  
27 the secretary and must be laypersons not regulated by the  
28 board. All initial appointments shall expire on October 31,  
29 2000. Current members may be appointed to one additional term  
30 that complies with the provisions of this paragraph. Two  
31 members shall be appointed for 2 years, three members shall be



1 appointed for 3 years, and two members shall be appointed for  
2 4 years. One layperson shall be appointed to a 3-year term and  
3 one layperson shall be appointed to a 4-year term. Thereafter,  
4 all appointments shall be for 4-year terms. No new member  
5 shall serve more than two consecutive terms. Failure to attend  
6 three consecutive meetings shall be deemed a resignation from  
7 the board, and the vacancy shall be filled by a new  
8 appointment.

9 (g) Select its officers in accordance with its bylaws.  
10 The members of the board of directors may be removed by the  
11 board, with the concurrence of the department, for the same  
12 reasons that a board member may be removed.

13 (h) Use a portion of the interest derived from the  
14 management corporation account to offset the costs associated  
15 with the use of credit cards for payment of fees by applicants  
16 or licensees.

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

20 1. Approval of the articles of incorporation and  
21 bylaws of the management corporation by the department and the  
22 board.

23 2. Submission by the management corporation of an  
24 annual budget that complies with board rules for approval by  
25 the board and the department.

26 3. Annual certification by the board and the  
27 department that the management corporation is complying with  
28 the terms of the contract in a manner consistent with the  
29 goals and purposes of the board and in the best interest of  
30 the state. This certification must be reported in the board's  
31 minutes. The contract must also provide for methods and

1 mechanisms to resolve any situation in which the certification  
2 process determines noncompliance.

3           4. Employment by the department of a contract  
4 administrator to actively supervise the administrative,  
5 investigative, and prosecutorial activities of the management  
6 corporation to ensure compliance with the contract and the  
7 provisions of chapter 455 and this chapter and to act as a  
8 liaison for the department, the board, and the management  
9 corporation to ensure the effective operation of the  
10 management corporation.

11           5. Funding of the management corporation through  
12 appropriations allocated to the regulation of professional  
13 engineers from the Professional Regulation Trust Fund.

14           6. The reversion to the board, or the state if the  
15 board ceases to exist, of moneys, records, data, and property  
16 held in trust by the management corporation for the benefit of  
17 the board, if the management corporation is no longer approved  
18 to operate for the board or the board ceases to exist. All  
19 records and data in a computerized database shall be returned  
20 to the department in a form that is compatible with the  
21 computerized database of the department.

22           7. The securing and maintaining by the management  
23 corporation, during the term of the contract and for all acts  
24 performed during the term of the contract, of all liability  
25 insurance coverages in an amount to be approved by the  
26 department to defend, indemnify, and hold harmless the  
27 management corporation and its officers and employees, the  
28 department and its employees, and the state against all claims  
29 arising from state and federal laws. Such insurance coverage  
30 must be with insurers qualified and doing business in the  
31 state. The management corporation must provide proof of

1 insurance to the department. The department and its employees  
2 and the state are exempt from and are not liable for any sum  
3 of money which represents a deductible, which sums shall be  
4 the sole responsibility of the management corporation.  
5 Violation of this subparagraph shall be grounds for  
6 terminating the contract.

7           8. Payment by the management corporation, out of its  
8 allocated budget, to the department of all costs of  
9 representation by the board counsel, including salary and  
10 benefits, travel, and any other compensation traditionally  
11 paid by the department to other board counsels.

12           9. Payment by the management corporation, out of its  
13 allocated budget, to the department of all costs incurred by  
14 the management corporation or the board for the Division of  
15 Administrative Hearings of the Department of Management  
16 Services and any other cost for utilization of these state  
17 services.

18           10. Payment by the management corporation, out of its  
19 allocated budget, to the department of all costs associated  
20 with the contract administrator of the department, including  
21 salary and benefits, travel, and other related costs  
22 traditionally paid to state employees.

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

1 the Legislative Auditing Committee, conduct an audit of the  
2 corporation.

3 (k) Provide for persons charged with the  
4 responsibility of receiving and depositing fee and fine  
5 revenues to have a faithful performance bond in such an amount  
6 and according to such terms as shall be determined in the  
7 contract.

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

22 (m) Develop, with the department, performance  
23 standards and measurable outcomes for the board to adopt by  
24 rule in order to facilitate efficient and cost-effective  
25 regulation.

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

28 509.036 Public food service inspector  
29 standardization.--

30 (3) The division and its agent shall adopt rules in  
31 accordance with the provisions of chapter 120 to provide for

1 disciplinary action in cases of inspector negligence. An  
2 inspector may be subject to suspension or dismissal for cause  
3 as set forth in s. 109.227 ~~110.227~~.

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

7 509.036 Public food service inspector  
8 standardization.--

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

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

16 570.073 Department of Agriculture and Consumer  
17 Services, law enforcement officers.--

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

27 (a) Domesticated animals, including livestock,  
28 poultry, aquaculture products, and other wild or domesticated  
29 animals or animal products.

30 (b) Farms, farm equipment, livery tack, citrus or  
31 citrus products, or horticultural products.

1           (c) Trespass, littering, forests, forest fires, and  
2 open burning.

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

4           (e) Enforcement of a marketing order.

5           (f) Protection of consumers.

6           (g) Civil traffic offenses provided for in chapters  
7 316, 320, and 322, subject to the provisions of chapter 318,  
8 relating to any matter over which the department has  
9 jurisdiction or committed on property owned, managed, or  
10 occupied by the department.

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

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

16           (j) Any crime incidental to or related to paragraphs  
17 (a)-(i).

18           Section 131. Section 570.074, Florida Statutes, is  
19 amended to read:

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

31

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

3           624.307 General powers; duties.--

4           (6) The department may employ actuaries who shall be  
5 at-will employees and who shall serve at the pleasure of the  
6 Insurance Commissioner. Actuaries employed pursuant to this  
7 paragraph shall be members of the Society of Actuaries or the  
8 Casualty Actuarial Society and shall be exempt from the Career  
9 Service System established under chapter 109 ~~110~~. The  
10 salaries of the actuaries employed pursuant to this paragraph  
11 by the department shall be set in accordance with s.  
12 216.251(2)(a)5. and shall be set at levels which are  
13 commensurate with salary levels paid to actuaries by the  
14 insurance industry.

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

17           627.0623 Restrictions on expenditures and  
18 solicitations of insurers and affiliates.--

19           (4) No employee of the department may solicit a  
20 campaign contribution for the Treasurer or any candidate for  
21 the office of Treasurer from any insurer, affiliate, or  
22 officer of an insurer or affiliate, or any political committee  
23 or committee of continuous existence that represents such  
24 insurer, affiliate, or officer. For purposes of this section,  
25 "employee of the department" means any person employed in the  
26 Department of Insurance or the Treasurer's office holding a  
27 position in the Senior Management Service as defined in s.  
28 109.402 ~~110.402~~; any person holding a position in the Selected  
29 Exempt Service as defined in s. 109.602 ~~110.602~~; any person  
30 having authority over insurance policy, regulation, or  
31 supervision; or any person hired on a contractual basis,

1 having the power normally conferred upon such person, by  
2 whatever title.

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

5 627.6488 Florida Comprehensive Health Association.--

6 (4) The association shall:

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

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

31 627.649 Administrator.--



1 (1) The board shall select an administrator, through a  
2 competitive bidding process, to administer the plan. The  
3 board shall evaluate bids submitted under this subsection  
4 based on criteria established by the board, which criteria  
5 shall include:

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

11 Section 136. Paragraph (a) of subsection (2) and  
12 subsection (3) of section 627.6498, Florida Statutes, are  
13 amended to read:

14 627.6498 Minimum benefits coverage; exclusions;  
15 premiums; deductibles.--

16 (2) BENEFITS.--

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

29 (3) COVERED EXPENSES.--The coverage to be issued by  
30 the association shall be patterned after the state group  
31 health insurance program as defined in s. 109.123 ~~110.123~~,

1 including its benefits, exclusions, and other limitations,  
2 except as otherwise provided in this act. The plan may cover  
3 the cost of experimental drugs which have been approved for  
4 use by the Food and Drug Administration on an experimental  
5 basis if the cost is less than the usual and customary  
6 treatment. Such coverage shall only apply to those insureds  
7 who are in the case management system upon the approval of the  
8 insured, the case manager, and the board.

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

11 627.6617 Coverage for home health care services.--

12 (4) The provisions of this section shall not apply to  
13 a multiple-employer welfare arrangement as defined in s.  
14 624.437(1) and in the State Health Plan as provided in s.  
15 109.123 ~~110.123~~.

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

18 655.019 Campaign contributions; limitations.--

19 (3) No employee of the department may solicit a  
20 campaign contribution for the Comptroller or any candidate for  
21 the office of the Comptroller from any person who is licensed  
22 or otherwise authorized to do business by the department or  
23 who has an application pending for licensure or other  
24 authorization to do business pending with the department, or  
25 any director, officer, employee, agent, retained legal  
26 counsel, lobbyist, or partner or affiliate of that person or  
27 any political committee or committee of continuous existence  
28 that represents that person. For purposes of this section,  
29 "employee of the department" means any person employed in the  
30 department or the Comptroller's office holding a position in  
31 the Senior Management Service as defined in s. 109.402

1 ~~110.402~~; any person holding a position in the Selected Exempt  
 2 Service as defined in s. 109.602 ~~110.602~~; any person having  
 3 authority over institution policy, regulation, or supervision;  
 4 or any person hired on a contractual basis, having the power  
 5 normally conferred upon such person, by whatever title.

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

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

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

22 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
 23 criminal history record of a minor or an adult which is  
 24 ordered expunged by a court of competent jurisdiction pursuant  
 25 to this section must be physically destroyed or obliterated by  
 26 any criminal justice agency having custody of such record;  
 27 except that any criminal history record in the custody of the  
 28 department must be retained in all cases. A criminal history  
 29 record ordered expunged that is retained by the department is  
 30 confidential and exempt from the provisions of s. 119.07(1)  
 31 and s. 24(a), Art. I of the State Constitution and not

1 available to any person or entity except upon order of a court  
2 of competent jurisdiction. A criminal justice agency may  
3 retain a notation indicating compliance with an order to  
4 expunge.

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

11 1. Is a candidate for employment with a criminal  
12 justice agency;

13 2. Is a defendant in a criminal prosecution;

14 3. Concurrently or subsequently petitions for relief  
15 under this section or s. 943.059;

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

17 5. Is seeking to be employed or licensed by or to  
18 contract with the Department of Children and Family Services  
19 or the Department of Juvenile Justice or to be employed or  
20 used by such contractor or licensee in a sensitive position  
21 having direct contact with children, the developmentally  
22 disabled, the aged, or the elderly as provided in s.

23 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.  
24 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
25 415.102(4), s. 985.407, or chapter 400; or

26 6. Is seeking to be employed or licensed by the Office  
27 of Teacher Education, Certification, Staff Development, and  
28 Professional Practices of the Department of Education, any  
29 district school board, or any local governmental entity that  
30 licenses child care facilities.

31

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

3           943.059 Court-ordered sealing of criminal history  
4 records.--The courts of this state shall continue to have  
5 jurisdiction over their own procedures, including the  
6 maintenance, sealing, and correction of judicial records  
7 containing criminal history information to the extent such  
8 procedures are not inconsistent with the conditions,  
9 responsibilities, and duties established by this section. Any  
10 court of competent jurisdiction may order a criminal justice  
11 agency to seal the criminal history record of a minor or an  
12 adult who complies with the requirements of this section. The  
13 court shall not order a criminal justice agency to seal a  
14 criminal history record until the person seeking to seal a  
15 criminal history record has applied for and received a  
16 certificate of eligibility for sealing pursuant to subsection  
17 (2). A criminal history record that relates to a violation of  
18 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,  
19 s. 893.135, or a violation enumerated in s. 907.041 may not be  
20 sealed, without regard to whether adjudication was withheld,  
21 if the defendant was found guilty of or pled guilty or nolo  
22 contendere to the offense, or if the defendant, as a minor,  
23 was found to have committed or pled guilty or nolo contendere  
24 to committing the offense as a delinquent act. The court may  
25 only order sealing of a criminal history record pertaining to  
26 one arrest or one incident of alleged criminal activity,  
27 except as provided in this section. The court may, at its sole  
28 discretion, order the sealing of a criminal history record  
29 pertaining to more than one arrest if the additional arrests  
30 directly relate to the original arrest. If the court intends  
31 to order the sealing of records pertaining to such additional

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

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

27 (a) The subject of a criminal history record sealed  
 28 under this section or under other provisions of law, including  
 29 former s. 893.14, former s. 901.33, and former s. 943.058, may  
 30 lawfully deny or fail to acknowledge the arrests covered by  
 31 the sealed record, except when the subject of the record:

- 1           1. Is a candidate for employment with a criminal
- 2 justice agency;
- 3           2. Is a defendant in a criminal prosecution;
- 4           3. Concurrently or subsequently petitions for relief
- 5 under this section or s. 943.0585;
- 6           4. Is a candidate for admission to The Florida Bar;
- 7           5. Is seeking to be employed or licensed by or to
- 8 contract with the Department of Children and Family Services
- 9 or the Department of Juvenile Justice or to be employed or
- 10 used by such contractor or licensee in a sensitive position
- 11 having direct contact with children, the developmentally
- 12 disabled, the aged, or the elderly as provided in s.
- 13 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
- 14 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
- 15 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
- 16           6. Is seeking to be employed or licensed by the Office
- 17 of Teacher Education, Certification, Staff Development, and
- 18 Professional Practices of the Department of Education, any
- 19 district school board, or any local governmental entity which
- 20 licenses child care facilities.
- 21           Section 141. Subsection (4) of section 943.22, Florida
- 22 Statutes, is amended to read:
- 23           943.22 Salary incentive program for full-time
- 24 officers.--
- 25           (4) No individual filling a position in the Senior
- 26 Management Service as defined in s. 109.402 ~~110.402~~ is
- 27 eligible to participate in the salary incentive program
- 28 authorized by this section.
- 29           Section 142. Paragraph (c) of subsection (3) of
- 30 section 944.35, Florida Statutes, is amended to read:
- 31



1           944.35 Authorized use of force; malicious battery and  
2 sexual misconduct prohibited; reporting required; penalties.--

3           (3)

4           (c) Notwithstanding prosecution, any violation of the  
5 provisions of this subsection, as determined by the Public  
6 Employees Relations Commission, shall constitute sufficient  
7 cause under s. 109.227 ~~110.227~~ for dismissal from employment  
8 with the department, and such person shall not again be  
9 employed in any capacity in connection with the correctional  
10 system.

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

13           945.043 Department-operated day care services.--

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

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

18           957.03 Correctional Privatization Commission.--

19           (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The  
20 commission shall be a separate budget entity, and the  
21 executive director shall be its chief administrative officer.  
22 The Department of Management Services shall provide  
23 administrative support and service to the commission to the  
24 extent requested by the executive director. The commission and  
25 its staff are not subject to control, supervision, or  
26 direction by the Department of Management Services in any  
27 manner, including, but not limited to, personnel, purchasing,  
28 and budgetary matters, except to the extent as provided in  
29 chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the  
30 executive branch. The executive director may designate a  
31 maximum of two policymaking or managerial positions as being

1 exempt from the Career Service System. These two positions may  
2 be provided for as members of the Senior Management Service.

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

5 985.04 Oaths; records; confidential information.--

6 (2) Records maintained by the Department of Juvenile  
7 Justice, including copies of records maintained by the court,  
8 which pertain to a child found to have committed a delinquent  
9 act which, if committed by an adult, would be a crime  
10 specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457,  
11 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed  
12 pursuant to this section, except in cases of the death of the  
13 child. Such records, however, shall be sealed by the court for  
14 use only in meeting the screening requirements for personnel  
15 in s. 402.3055 and the other sections cited above, or pursuant  
16 to departmental rule; however, current criminal history  
17 information must be obtained from the Department of Law  
18 Enforcement in accordance with s. 943.053. The information  
19 shall be released to those persons specified in the above  
20 cited sections for the purposes of complying with those  
21 sections. The court may punish by contempt any person who  
22 releases or uses the records for any unauthorized purpose.

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

25 985.05 Court records.--

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

29 (e) Records of proceedings under this part may be used  
30 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,

31

1 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,  
2 409.176, and 985.407.

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

5 985.4045 Sexual misconduct prohibited; reporting  
6 required; penalties.--

7 (1)

8 (b) Notwithstanding prosecution, any violation of this  
9 subsection, as determined by the Public Employees Relations  
10 Commission, constitutes sufficient cause under s. 109.227  
11 ~~110.227~~ for dismissal from employment with the department, and  
12 such person may not again be employed in any capacity in  
13 connection with the juvenile justice system.

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

16 216.262 Authorized positions.--

17 (1)

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

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

9           3.a. A state agency may be eligible for an efficiency  
10 award based on changes to authorized positions. To be  
11 eligible, the agency must submit an application to the  
12 Legislative Budgeting Commission identifying the modification  
13 to an approved program resulting in efficiency and cost  
14 savings.

15           b. The amount of the efficiency award shall be  
16 determined by the Legislative Budgeting Commission but shall  
17 not exceed the actual savings of currently appropriated funds.  
18 In determining the amount of the award, the Legislative  
19 Budgeting Commission shall consider the actual savings for the  
20 current year and the annualized savings. The efficiency award  
21 may be used for nonrecurring purposes only.

22           c. Each state agency allowed to retain salary  
23 appropriations pursuant to this subparagraph shall submit in  
24 its next legislative budget request a schedule showing how the  
25 agency utilized such funds.

26           Section 149. Effective January 1, 2002, section  
27 447.201, Florida Statutes, is amended to read:

28           447.201 Statement of policy.--~~It is declared that~~ The  
29 public policy of this ~~the~~ state, and the purpose of this part,  
30 is to provide statutory implementation of s. 6, Art. I of the  
31 State Constitution, with respect to public employees; to

1 promote harmonious and cooperative relationships between  
2 government and its employees, both collectively and  
3 individually; and to protect the public by assuring, at all  
4 times, the orderly and uninterrupted operations and functions  
5 of government. ~~It is the intent of the Legislature that~~

6 Nothing herein shall be construed either to encourage or  
7 discourage organization of public employees. This state's  
8 public policy is ~~These policies are~~ best effectuated by:

9 (1) Granting to public employees the right of  
10 organization and representation;

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

14 (3) Creating a Public Employees Relations Commission  
15 to assist in resolving disputes between public employees and  
16 public employers; and

17 (4) Recognizing the constitutional prohibition against  
18 strikes by public employees and providing remedies for  
19 violations of such prohibition.

20 Section 150. Effective January 1, 2002, subsections  
21 (1), (3), and (4) of section 447.205, Florida Statutes, are  
22 amended to read:

23 447.205 Public Employees Relations Commission.--

24 (1) ~~There is hereby created within the Department of~~  
25 ~~Labor and Employment Security~~ The Public Employees Relations  
26 Commission, hereinafter referred to as the "commission," ~~The~~  
27 ~~commission~~ shall be composed of a chair and two full-time  
28 members to be appointed by the Governor, subject to  
29 confirmation by the Senate, from persons representative of the  
30 public and known for their objective and independent judgment,  
31 who shall not be employed by, or hold any commission with, any

1 governmental unit in the state or any employee organization,  
2 as defined in this part, while in such office. In no event  
3 shall more than one appointee be a person who, on account of  
4 previous vocation, employment, or affiliation, is, or has  
5 been, classified as a representative of employers; and in no  
6 event shall more than one such appointee be a person who, on  
7 account of previous vocation, employment, or affiliation, is,  
8 or has been, classified as a representative of employees or  
9 employee organizations. The commissioners shall devote full  
10 time to commission duties and shall not engage in any other  
11 business, vocation, or employment while in such office.  
12 Beginning January 1, 1980, the chair shall be appointed for a  
13 term of 4 years, one commissioner for a term of 1 year, and  
14 one commissioner for a term of 2 years. Thereafter, every term  
15 of office shall be for 4 years; and each term of the office of  
16 chair shall commence on January 1 of the second year following  
17 each regularly scheduled general election at which a Governor  
18 is elected to a full term of office. In the event of a  
19 vacancy prior to the expiration of a term of office, an  
20 appointment shall be made for the unexpired term of that  
21 office. The chair shall be responsible for the administrative  
22 functions of the commission and shall have the authority to  
23 employ such personnel as may be necessary to carry out the  
24 provisions of this part. Once appointed to the office of  
25 chair, the chair shall serve as chair for the duration of the  
26 term of office of chair. Nothing contained herein prohibits a  
27 chair or commissioner from serving multiple terms.

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

1           (4) The property, personnel, and appropriations  
2 related to the commission's specified authority, powers,  
3 duties, and responsibilities shall be provided to the  
4 commission by the Department of Management Services ~~labor and~~  
5 ~~Employment Security~~.

6           Section 151. Effective January 1, 2002, subsections  
7 (8), (9), (10), and (11) of section 447.207, Florida Statutes,  
8 are repealed.

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

11           447.208 Procedure for ~~with respect to~~ certain appeals  
12 under s. 447.207.--

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

26           (2) This section does not prohibit any person from  
27 representing himself or herself in proceedings before the  
28 commission or from being represented by legal counsel or by  
29 any individual who qualifies as a representative pursuant to  
30 rules promulgated and adopted by the commission.

31

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

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

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

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

24           (b) With regard to a law enforcement or correctional  
25 officer or a firefighter:

26           1. Upon a finding that just cause existed for the  
27 demotion, suspension, or dismissal, the commission shall  
28 affirm the demotion, suspension, or dismissal.

29           2. Upon a finding that just cause did not exist for  
30 the demotion, suspension, or dismissal, the commission may  
31



1 order the reinstatement of the law enforcement or correctional  
2 officer or firefighter, with or without back pay.

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

7 ~~(d)~~ The commission is limited in its discretionary  
8 reduction of dismissals and suspensions to consider only the  
9 following circumstances:

10 a.1. The seriousness of the conduct as it relates to  
11 the employee's duties and responsibilities.

12 b.2. Action taken with respect to similar conduct by  
13 other employees.

14 c.3. The previous employment record and disciplinary  
15 record of the employee.

16 d.4. Extraordinary circumstances beyond the employee's  
17 control which temporarily diminished the employee's capacity  
18 to effectively perform his or her duties or which  
19 substantially contributed to the violation for which  
20 punishment is being considered.

21  
22 The agency may present evidence to refute the existence of  
23 these circumstances.

24 ~~(c)~~~~(e)~~ Any order of the commission issued pursuant to  
25 this subsection may include back pay, if applicable, and an  
26 amount, to be determined by the commission and paid by the  
27 agency, for reasonable attorney's fees, witness fees, and  
28 other out-of-pocket expenses incurred during the prosecution  
29 of an appeal against an agency in which the commission finds  
30 sustains the employee met his or her burden of proof by  
31 establishing that the agency head abused his or her discretion

1 and that no reasonable cause existed for the employee's  
2 demotion, suspension, or dismissal. In determining the amount  
3 of an attorney's fee, the commission shall consider only the  
4 number of hours reasonably spent on the appeal, comparing the  
5 number of hours spent on similar Career Service System appeals  
6 and the reasonable hourly rate charged in the geographic area  
7 for similar appeals, but not including litigation over the  
8 amount of the attorney's fee. ~~This paragraph applies to future~~  
9 ~~and pending cases.~~

10 Section 153. Effective January 1, 2002, sections  
11 447.208 and 447.2085, Florida Statutes, are repealed.

12 Section 154. Paragraph (i) is added to subsection (4)  
13 of section 447.307, Florida Statutes, to read:

14 447.307 Certification of employee organization.--

15 (4) In defining a proposed bargaining unit, the  
16 commission shall take into consideration:

17 (i) Notwithstanding any other provision of law,  
18 administrative rule, or decision to the contrary, it is in the  
19 best interest of the state that all state law enforcement  
20 agencies with 1,200 or more officers shall be placed in a  
21 separate bargaining unit from officers in other state law  
22 enforcement agencies. Should application of this requirement  
23 result in the establishment or recomposition of more than one  
24 state law enforcement bargaining unit, a question concerning  
25 representation shall be deemed to have arisen for each  
26 affected bargaining unit and, upon appropriate petition, a  
27 representation election to determine the bargaining  
28 representative shall be conducted.

29  
30 However, no unit shall be established or approved for purposes  
31 of collective bargaining which includes both professional and

1 nonprofessional employees unless a majority of each group  
2 votes for inclusion in such unit.

3 Section 155. Effective July 1, 2001, paragraph (a) of  
4 subsection (6) of section 447.503, Florida Statutes, is  
5 amended to read:

6 447.503 Charges of unfair labor practices.--It is the  
7 intent of the Legislature that the commission act as  
8 expeditiously as possible to settle disputes regarding alleged  
9 unfair labor practices. To this end, violations of the  
10 provisions of s. 447.501 shall be remedied by the commission  
11 in accordance with the following procedures and in accordance  
12 with chapter 120; however, to the extent that chapter 120 is  
13 inconsistent with the provisions of this section, the  
14 procedures contained in this section shall govern:

15 (6)(a) If, upon consideration of the record in the  
16 case, the commission finds that an unfair labor practice has  
17 been committed, it shall issue and cause to be served an order  
18 requiring the appropriate party or parties to cease and desist  
19 from the unfair labor practice and take such positive action,  
20 including reinstatement of employees with or without back pay,  
21 as will best implement the general policies expressed in this  
22 part. However, no order of the commission shall require the  
23 reinstatement of any individual as an employee who has been  
24 suspended or discharged, or the payment of any back pay, if  
25 the individual was suspended or discharged as otherwise  
26 provided by law ~~for cause~~. The order may further require the  
27 party or parties to make periodic reports showing the extent  
28 to which it has complied with the order. If, upon  
29 consideration of the record in the case, the commission finds  
30 that an unfair labor practice has not been or is not being  
31 committed, it shall issue an order dismissing the case.

1           Section 156. Paragraph (a) of subsection (5) of  
2 section 447.507, Florida Statutes, is amended to read:

3           447.507 Violation of strike prohibition; penalties.--

4           (5) If the commission, after a hearing on notice  
5 conducted according to rules promulgated by the commission,  
6 determines that an employee has violated s. 447.505, it may  
7 order the termination of his or her employment by the public  
8 employer. Notwithstanding any other provision of law, a person  
9 knowingly violating the provision of said section may,  
10 subsequent to such violation, be appointed, reappointed,  
11 employed, or reemployed as a public employee, but only upon  
12 the following conditions:

13           (a) Such person shall be on probation for a period of  
14 18 6 months following his or her appointment, reappointment,  
15 employment, or reemployment, during which period he or she  
16 shall serve without permanent status and at the pleasure of  
17 the agency head tenure. ~~During this period, the person may be~~  
18 ~~discharged only upon a showing of just cause.~~

19           Section 157. Effective January 1, 2002, paragraph (m)  
20 of subsection (2) of section 39.202, Florida Statutes, is  
21 amended to read:

22           39.202 Confidentiality of reports and records in cases  
23 of child abuse or neglect.--

24           (2) Access to such records, excluding the name of the  
25 reporter which shall be released only as provided in  
26 subsection (4), shall be granted only to the following  
27 persons, officials, and agencies:

28           (m) The Office of Employee Relations within the  
29 Department of Management Services ~~Public Employees Relations~~  
30 ~~Commission~~ for the sole purpose of obtaining evidence for  
31 voluntary binding arbitration conducted ~~appeals filed~~ pursuant

1 to s. 109.240 ~~447.207~~. Records may be released only after  
2 deletion of all information which specifically identifies  
3 persons other than the employee.

4 Section 158. Effective January 1, 2002, subsection (4)  
5 of section 112.044, Florida Statutes, as amended by this act,  
6 is amended to read:

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

10 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of  
11 the state ~~who is within the Career Service System established~~  
12 ~~by chapter 109 and who is aggrieved by a violation of this act~~  
13 ~~may appeal to the Public Employees Relations Commission under~~  
14 ~~the conditions and following the procedures prescribed in part~~  
15 ~~II of chapter 447. Any person other than an employee who is~~  
16 ~~within the Career Service System established by chapter 109,~~  
17 ~~or any person employed by the Public Employees Relations~~  
18 ~~Commission, who is aggrieved by a violation of this act may~~  
19 bring a civil action in any court of competent jurisdiction  
20 for such legal or equitable relief as will effectuate the  
21 purposes of this act, unless voluntary binding arbitration is  
22 conducted pursuant to s. 109.240.

23 Section 159. Effective January 1, 2002, paragraph (b)  
24 of subsection (6), subsection (14), and paragraph (a) of  
25 subsection (15) of section 112.0455, Florida Statutes, are  
26 amended to read:

27 112.0455 Drug-Free Workplace Act.--

28 (6) NOTICE TO EMPLOYEES.--

29 (b) Prior to testing, all employees and job applicants  
30 for employment shall be given a written policy statement from  
31 the employer which contains:

- 1           1. A general statement of the employer's policy on  
2 employee drug use, which shall identify:
  - 3           a. The types of testing an employee or job applicant  
4 may be required to submit to, including reasonable suspicion  
5 or other basis; and
  - 6           b. The actions the employer may take against an  
7 employee or job applicant on the basis of a positive confirmed  
8 drug test result.
- 9           2. A statement advising the employee or job applicant  
10 of the existence of this section.
- 11           3. A general statement concerning confidentiality.
- 12           4. Procedures for employees and job applicants to  
13 confidentially report the use of prescription or  
14 nonprescription medications both before and after being  
15 tested. Additionally, employees and job applicants shall  
16 receive notice of the most common medications by brand name or  
17 common name, as applicable, as well as by chemical name, which  
18 may alter or affect a drug test. A list of such medications  
19 shall be developed by the Agency for Health Care  
20 Administration.
- 21           5. The consequences of refusing to submit to a drug  
22 test.
- 23           6. Names, addresses, and telephone numbers of employee  
24 assistance programs and local alcohol and drug rehabilitation  
25 programs.
- 26           7. A statement that an employee or job applicant who  
27 receives a positive confirmed drug test result may contest or  
28 explain the result to the employer within 5 working days after  
29 written notification of the positive test result. If an  
30 employee or job applicant's explanation or challenge is  
31

1 unsatisfactory to the employer, the person may contest the  
2 drug test result as provided by subsections (14) and (15).

3 8. A statement informing the employee or job applicant  
4 of his or her responsibility to notify the laboratory of any  
5 administrative or civil actions brought pursuant to this  
6 section.

7 9. A list of all drugs for which the employer will  
8 test, described by brand names or common names, as applicable,  
9 as well as by chemical names.

10 10. A statement regarding any applicable collective  
11 bargaining agreement or contract and the right to appeal to  
12 the circuit court or request voluntary binding arbitration, if  
13 applicable, as provided for by s. 109.240 ~~Public Employees~~  
14 ~~Relations Commission.~~

15 11. A statement notifying employees and job applicants  
16 of their right to consult the testing laboratory for technical  
17 information regarding prescription and nonprescription  
18 medication.

19 (14) DISCIPLINE REMEDIES.--

20 (a) An executive branch employee who is disciplined or  
21 who is a job applicant for another position and is not hired  
22 pursuant to this section, may file an appeal with the circuit  
23 court or request voluntary binding arbitration, if applicable,  
24 as provided for by s. 109.240 ~~Public Employees Relations~~  
25 ~~Commission.~~ Any appeal must be filed within 30 calendar days  
26 of receipt by the employee or job applicant of notice of  
27 discipline or refusal to hire. The notice shall inform the  
28 employee or job applicant of the right to file an appeal, or  
29 if available, the right to file a collective bargaining  
30 grievance pursuant to s. 447.401. ~~Such appeals shall be~~  
31 ~~resolved pursuant to the procedures established in ss.~~

1 ~~447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing  
2 on the appeal shall be conducted within 30 days after ~~of~~ the  
3 filing of the appeal, unless an extension is requested by the  
4 employee or job applicant and granted by the court ~~commission~~  
5 or a collective bargaining grievance ~~an~~ arbitrator.

6 ~~(b) The commission shall promulgate rules concerning~~  
7 ~~the receipt, processing, and resolution of appeals filed~~  
8 ~~pursuant to this section.~~

9 ~~(c) Appeals to the commission shall be the exclusive~~  
10 ~~administrative remedy for any employee who is disciplined or~~  
11 ~~any job applicant who is not hired pursuant to this section,~~  
12 ~~notwithstanding the provisions of chapter 120. However,~~  
13 Nothing in this subsection shall affect the right of an  
14 employee or job applicant to file a collective bargaining  
15 grievance pursuant to s. 447.401 provided that an employee or  
16 job applicant may not file both an appeal and a grievance.

17 ~~(d) An employee or a job applicant who has been~~  
18 ~~disciplined or who has not been hired pursuant to this section~~  
19 ~~must exhaust either the administrative appeal process or~~  
20 ~~collective bargaining grievance arbitration process.~~

21 ~~(e) Upon resolving an appeal filed pursuant to~~  
22 ~~paragraph (c), and finding a violation of this section, the~~  
23 ~~commission may order the following relief:~~

24 ~~1. Rescind the disciplinary action, expunge related~~  
25 ~~records from the personnel file of the employee or job~~  
26 ~~applicant and reinstate the employee.~~

27 ~~2. Order compliance with paragraph (10)(g).~~

28 ~~3. Award back pay and benefits.~~

29 (b)4. The court may award the prevailing employee or  
30 job applicant the necessary costs of the appeal, reasonable  
31 attorney's fees, and expert witness fees.



1 (15) NONDISCIPLINE REMEDIES.--

2 (a) Any person alleging a violation of the provisions  
3 of this section, that is not remediable ~~by the commission or~~  
4 ~~an arbitrator~~ pursuant to subsection (14), must institute a  
5 civil action for injunctive relief or damages, or both, in a  
6 court of competent jurisdiction within 180 days of the alleged  
7 violation, or be barred from obtaining the following relief.  
8 Relief is limited to:

9 1. An order restraining the continued violation of  
10 this section.

11 2. An award of the costs of litigation, expert witness  
12 fees, reasonable attorney's fees, and noneconomic damages  
13 provided that damages shall be limited to the recovery of  
14 damages directly resulting from injury or loss caused by each  
15 violation of this section.

16 Section 160. Effective July 1, 2001, paragraph (a) of  
17 subsection (3) and subsection (4) of section 112.31895,  
18 Florida Statutes, are amended to read:

19 112.31895 Investigative procedures in response to  
20 prohibited personnel actions.--

21 (3) CORRECTIVE ACTION AND TERMINATION OF  
22 INVESTIGATION.--

23 (a) The Florida Commission on Human Relations, in  
24 accordance with this act and for the sole purpose of this act,  
25 is empowered to:

26 1. Receive and investigate complaints from employees  
27 alleging retaliation by state agencies, as the term "state  
28 agency" is defined in s. 216.011.

29 2. Protect employees and applicants for employment  
30 with such agencies from prohibited personnel practices under  
31 s. 112.3187.

1           3. Petition for stays and petition for corrective  
2 actions, including, but not limited to, temporary  
3 reinstatement.

4           4. Recommend disciplinary proceedings pursuant to  
5 investigation and appropriate agency rules and procedures.

6           5. Coordinate with the Chief Inspector General in the  
7 Executive Office of the Governor and the Florida Commission on  
8 Human Relations to receive, review, and forward to appropriate  
9 agencies, legislative entities, or the Department of Law  
10 Enforcement disclosures of a violation of any law, rule, or  
11 regulation, or disclosures of gross mismanagement,  
12 malfeasance, misfeasance, nonfeasance, neglect of duty, or  
13 gross waste of public funds.

14           6. Review rules pertaining to personnel matters issued  
15 or proposed by the Department of Management Services, the  
16 Office of Employee Relations, the Public Employees Relations  
17 Commission, and other agencies, and, if the Florida Commission  
18 on Human Relations finds that any rule or proposed rule, on  
19 its face or as implemented, requires the commission of a  
20 prohibited personnel practice, provide a written comment to  
21 the appropriate agency.

22           7. Investigate, request assistance from other  
23 governmental entities, and, if appropriate, bring actions  
24 concerning, allegations of retaliation by state agencies under  
25 subparagraph 1.

26           8. Administer oaths, examine witnesses, take  
27 statements, issue subpoenas, order the taking of depositions,  
28 order responses to written interrogatories, and make  
29 appropriate motions to limit discovery, pursuant to  
30 investigations under subparagraph 1.

31

1           9. Intervene or otherwise participate, as a matter of  
2 right, in any appeal or other proceeding arising under this  
3 section before an ~~the Public Employees Relations Commission or~~  
4 ~~any other appropriate~~ agency, except that the Florida  
5 Commission on Human Relations must comply with the rules of  
6 that ~~the commission or other~~ agency and may not seek  
7 corrective action or intervene in an appeal or other  
8 proceeding without the consent of the person protected under  
9 ss. 112.3187-112.31895.

10           10. Conduct an investigation, in the absence of an  
11 allegation, to determine whether reasonable grounds exist to  
12 believe that a prohibited action or a pattern of prohibited  
13 action has occurred, is occurring, or is to be taken.

14           (4) RIGHT TO APPEAL.--

15           ~~(a)~~ Not more than 60 days after receipt of a notice of  
16 termination of the investigation from the Florida Commission  
17 on Human Relations, the complainant may file for judicial  
18 review of the notice of termination as provided for in s.  
19 120.68. The notice of termination of the investigation, which  
20 shall contain a statement of facts, analysis, and conclusions,  
21 shall be considered final agency action for purposes of s.  
22 ~~120.68., with the Public Employees Relations Commission, a~~  
23 ~~complaint against the hearings regarding the alleged~~  
24 ~~prohibited personnel action. The Public Employees Relations~~  
25 ~~Commission shall have jurisdiction over such complaints under~~  
26 ~~ss. 112.3187 and 447.503(4) and (5).~~

27           ~~(b)~~ ~~Judicial review of any final order of the~~  
28 ~~commission shall be as provided in s. 120.68.~~

29           Section 161. Effective January 1, 2002, paragraph (a)  
30 of subsection (3) of section 112.31895, Florida Statutes, as  
31 amended by this act, is amended to read:

1           112.31895 Investigative procedures in response to  
2 prohibited personnel actions.--

3           (3) CORRECTIVE ACTION AND TERMINATION OF  
4 INVESTIGATION.--

5           (a) The Florida Commission on Human Relations, in  
6 accordance with this act and for the sole purpose of this act,  
7 is empowered to:

8           1. Receive and investigate complaints from employees  
9 alleging retaliation by state agencies, as the term "state  
10 agency" is defined in s. 216.011.

11           2. Protect employees and applicants for employment  
12 with such agencies from prohibited personnel practices under  
13 s. 112.3187.

14           3. Petition for stays and petition for corrective  
15 actions, including, but not limited to, temporary  
16 reinstatement.

17           4. Recommend disciplinary proceedings pursuant to  
18 investigation and appropriate agency rules and procedures.

19           5. Coordinate with the Chief Inspector General in the  
20 Executive Office of the Governor and the Florida Commission on  
21 Human Relations to receive, review, and forward to appropriate  
22 agencies, legislative entities, or the Department of Law  
23 Enforcement disclosures of a violation of any law, rule, or  
24 regulation, or disclosures of gross mismanagement,  
25 malfeasance, misfeasance, nonfeasance, neglect of duty, or  
26 gross waste of public funds.

27           6. Review rules pertaining to personnel matters issued  
28 or proposed by the Department of Management Services, the  
29 Office of Employee Relations, ~~the Public Employees Relations~~  
30 ~~Commission~~, and other agencies, and, if the Florida Commission  
31 on Human Relations finds that any rule or proposed rule, on

1 its face or as implemented, requires the commission of a  
2 prohibited personnel practice, provide a written comment to  
3 the appropriate agency.

4 7. Investigate, request assistance from other  
5 governmental entities, and, if appropriate, bring actions  
6 concerning, allegations of retaliation by state agencies under  
7 subparagraph 1.

8 8. Administer oaths, examine witnesses, take  
9 statements, issue subpoenas, order the taking of depositions,  
10 order responses to written interrogatories, and make  
11 appropriate motions to limit discovery, pursuant to  
12 investigations under subparagraph 1.

13 9. Intervene or otherwise participate, as a matter of  
14 right, in any appeal or other proceeding arising under this  
15 section before an agency, except that the Florida Commission  
16 on Human Relations must comply with the rules of that agency  
17 and may not seek corrective action or intervene in an appeal  
18 or other proceeding without the consent of the person  
19 protected under ss. 112.3187-112.31895.

20 10. Conduct an investigation, in the absence of an  
21 allegation, to determine whether reasonable grounds exist to  
22 believe that a prohibited action or a pattern of prohibited  
23 action has occurred, is occurring, or is to be taken.

24 Section 162. Effective July 1, 2001, subsection (12)  
25 of section 120.80, Florida Statutes, is amended to read:

26 120.80 Exceptions and special requirements;  
27 agencies.--

28 (12) OFFICE OF EMPLOYEE RELATIONS;PUBLIC EMPLOYEES  
29 RELATIONS COMMISSION.--

30 (a) Notwithstanding s. 120.57(1)(a), hearings within  
31 the jurisdiction of the Office of Employee Relations within

1 the Department of Management Services or the Public Employees  
2 Relations Commission need not be conducted by an  
3 administrative law judge assigned by the division.

4 (b) Section 120.60 does not apply to certification of  
5 employee organizations pursuant to s. 447.307.

6 Section 163. Paragraph (d) of subsection (2) of  
7 section 125.0108, Florida Statutes, is repealed.

8 Section 164. Paragraph (b) of subsection (9) of  
9 section 376.75, Florida Statutes, is amended to read:

10 376.75 Tax on production or importation of  
11 perchloroethylene.--

12 (9)

13 ~~(b) The Department of Revenue, under the applicable~~  
14 ~~rules of the Public Employees Relations Commission, is~~  
15 ~~authorized to employ persons and incur other expenses for~~  
16 ~~which funds are appropriated by the Legislature. The~~  
17 Department of Revenue is empowered to adopt such rules and  
18 shall prescribe and publish such forms as may be necessary to  
19 effectuate the purposes of this section.

20 Section 165. Paragraph (b) of subsection (3) of  
21 section 403.718, Florida Statutes, is amended to read:

22 403.718 Waste tire fees.--

23 (3)

24 ~~(b) The Department of Revenue, under the applicable~~  
25 ~~rules of the Career Service Commission, is authorized to~~  
26 ~~employ persons and incur other expenses for which funds are~~  
27 ~~appropriated by the Legislature. The department is empowered~~  
28 to adopt such rules and shall prescribe and publish such forms  
29 as may be necessary to effectuate the purposes of this  
30 section. The department is authorized to establish audit  
31 procedures and to assess delinquent fees.

1           Section 166. Section 538.11, Florida Statutes, is  
 2 amended to read:  
 3           538.11 Powers and duties of department; rules.--The  
 4 same duties and privileges imposed by chapter 212 upon dealers  
 5 of tangible personal property respecting the keeping of books  
 6 and records and accounts and compliance with rules of the  
 7 department shall apply to and be binding upon all persons who  
 8 are subject to the provisions of this chapter. The department  
 9 shall administer, collect, and enforce the registration  
 10 authorized under this chapter pursuant to the same procedures  
 11 used in the administration, collection, and enforcement of the  
 12 general state sales tax imposed under chapter 212, except as  
 13 provided in this section. The provisions of chapter 212  
 14 regarding the keeping of records and books shall apply. ~~The~~  
 15 ~~department, under the applicable rules of the Career Service~~  
 16 ~~Commission, is authorized to employ persons and incur other~~  
 17 ~~expenses for which funds are appropriated by the Legislature.~~  
 18 The department is empowered to adopt such rules, and shall  
 19 prescribe and publish such forms, as may be necessary to  
 20 effectuate the purposes of this chapter. The Legislature  
 21 hereby finds that the failure to promptly implement the  
 22 provisions of this chapter would present an immediate threat  
 23 to the welfare of the state. Therefore, the executive director  
 24 of the department is hereby authorized to adopt emergency  
 25 rules pursuant to s. 120.54(4), for purposes of implementing  
 26 this chapter. Notwithstanding any other provision of law, such  
 27 emergency rules shall remain effective for 6 months from the  
 28 date of adoption. Other rules of the department related to and  
 29 in furtherance of the orderly implementation of the chapter  
 30 shall not be subject to a rule challenge under s. 120.56(2) or  
 31 a drawout proceeding under s. 120.54(3)(c)2. but, once

1 adopted, shall be subject to an invalidity challenge under s.  
2 120.56(3). Such rules shall be adopted by the Governor and  
3 Cabinet and shall become effective upon filing with the  
4 Department of State, notwithstanding the provisions of s.  
5 120.54(3)(e)6.

6 Section 167. Effective July 1, 2001, section 284.30,  
7 Florida Statutes, is amended to read:

8 284.30 State Risk Management Trust Fund; coverages to  
9 be provided.--A state self-insurance fund, designated as the  
10 "State Risk Management Trust Fund," is created to be set up by  
11 the Department of Insurance and administered with a program of  
12 risk management, which fund is to provide insurance, as  
13 authorized by s. 284.33, for workers' compensation, general  
14 liability, fleet automotive liability, federal civil rights  
15 actions under 42 U.S.C. s. 1983 or similar federal statutes,  
16 and court-awarded attorney's fees in other proceedings against  
17 the state except for such awards in eminent domain or for  
18 inverse condemnation or for awards by the Public Employees  
19 Relations Commission or by the Office of Employee Relations.  
20 A party to a suit in any court, to be entitled to have his or  
21 her attorney's fees paid by the state or any of its agencies,  
22 must serve a copy of the pleading claiming the fees on the  
23 Department of Insurance; and thereafter the department shall  
24 be entitled to participate with the agency in the defense of  
25 the suit and any appeal thereof with respect to such fees.

26 Section 168. Effective July 1, 2001, section 284.31,  
27 Florida Statutes, is amended to read:

28 284.31 Scope and types of coverages; separate  
29 accounts.--The insurance risk management trust fund shall,  
30 unless specifically excluded by the Department of Insurance,  
31 cover all departments of the State of Florida and their



1 employees, agents, and volunteers and shall provide separate  
 2 accounts for workers' compensation, general liability, fleet  
 3 automotive liability, federal civil rights actions under 42  
 4 U.S.C. s. 1983 or similar federal statutes, and court-awarded  
 5 attorney's fees in other proceedings against the state except  
 6 for such awards in eminent domain or for inverse condemnation  
 7 or for awards by the Public Employees Relations Commission or  
 8 by the Office of Employee Relations. Unless specifically  
 9 excluded by the Department of Insurance, the insurance risk  
 10 management trust fund shall provide fleet automotive liability  
 11 coverage to motor vehicles titled to the state, or to any  
 12 department of the state, when such motor vehicles are used by  
 13 community transportation coordinators performing, under  
 14 contract to the appropriate department of the state, services  
 15 for the transportation disadvantaged under part I of chapter  
 16 427. Such fleet automotive liability coverage shall be primary  
 17 and shall be subject to the provisions of s. 768.28 and parts  
 18 II and III of chapter 284, and applicable rules adopted  
 19 thereunder, and the terms and conditions of the certificate of  
 20 coverage issued by the Department of Insurance.

21 Section 169. Effective January 1, 2002, paragraph (k)  
 22 of subsection (3) of section 415.107, Florida Statutes, is  
 23 amended to read:

24 415.107 Confidentiality of reports and records.--

25 (3) Access to all records, excluding the name of the  
 26 reporter which shall be released only as provided in  
 27 subsection (6), shall be granted only to the following  
 28 persons, officials, and agencies:

29 (k) The Office of Employee Relations ~~Public Employees~~  
 30 ~~Relations Commission~~ for the sole purpose of obtaining  
 31 evidence for voluntary binding arbitration conducted ~~appeals~~

1 ~~filed~~ pursuant to s. 109.240 and the Public Employees  
2 Relations Commission for the purpose of obtaining evidence for  
3 appeals filed pursuant to s. 447.207. Records may be released  
4 only after deletion of all information that specifically  
5 identifies persons other than the employee.

6 Section 170. Effective January 1, 2002, paragraph (c)  
7 of subsection (3) of section 944.35, Florida Statutes, and  
8 paragraph (b) of subsection (1) of section 985.4045, Florida  
9 Statutes, are repealed.

10 Section 171. The Office of Employee Relations within  
11 the Department of Management Services shall coordinate the  
12 development and implementation of a transition plan that  
13 supports the implementation of this act. The Department of  
14 Labor and Employment Security, the Public Employees Relations  
15 Commission, and all other state agencies identified by the  
16 office shall cooperate fully in developing and implementing  
17 the plan and shall dedicate the financial and staff resources  
18 that are necessary for such implementation.

19 Section 172. (1) Until July 1, 2001, the Public  
20 Employees Relations Commission shall continue to exercise its  
21 powers, duties, and functions pursuant to the authority  
22 granted it under the Florida Statutes 2000.

23 (2) On and after July 1, 2001, the Public Employees  
24 Relations Commission shall continue to exercise its powers,  
25 duties, and functions pursuant to this act's amendments which  
26 take effect July 1, 2001. As to those cases within the Public  
27 Employees Relations Commission jurisdiction regarding the  
28 suspension, dismissal, reduction in pay, demotion, layoff, or  
29 transfer of a career service employee that are pending before  
30 the commission on January 1, 2002, the commission shall  
31

1 continue to exercise its authority in order to finalize those  
2 existing cases under review.

3 (3) After June 30, 2002, the jurisdiction of the  
4 Public Employees Relations Commission to hear appeals arising  
5 out of any suspension, dismissal, reduction in pay, demotion,  
6 layoff, or transfer of an employee in the Career Service  
7 System shall cease to exist.

8 Section 173. There is appropriated to the Department  
9 of Management Services for fiscal year 2000-2001, \$26,208 of  
10 nonrecurring general revenue for the purpose of establishing  
11 an administrative staff to implement the provisions of this  
12 act.

13 Section 174. Effective January 1, 2002, the Public  
14 Employees Relations Commission is transferred from the  
15 Department of Labor and Employment Security to the Department  
16 of Management Services. The Public Employees Relations  
17 Commission shall have all its statutory powers, duties, and  
18 functions, as otherwise provided for in this act, transferred  
19 to the Department of Management Services. All the Public  
20 Employees Relations Commission's records, personnel, property,  
21 and unexpended balances of appropriations, allocations, or  
22 other funds are transferred to the Department of Management  
23 Services as of January 1, 2002, except that such portion of  
24 the personnel, property, and unexpended balances of  
25 appropriations, allocations, or other funds shall be  
26 transferred to the Office of Employee Relations within the  
27 Department of Management Services as is sufficient for that  
28 office to accomplish its duties and responsibilities as  
29 provided for in this act. Accordingly, the Executive Office of  
30 the Governor shall process a budget amendment, or budget  
31 amendments, subject to legislative notice and review under s.

1 216.177, Florida Statutes, to transfer such records,  
2 personnel, property, and unexpended balances of  
3 appropriations, allocations, or other funds of the Public  
4 Employees Relations Commission to the Office of Employee  
5 Relations as is sufficient for that office to perform its  
6 statutory duties and responsibilities. The Office of Employee  
7 Relations, the Public Employees Relations Commission, and the  
8 Department of Management Services shall work cooperatively in  
9 preparing and forwarding to the Executive Office of the  
10 Governor a recommended budget amendment, or amendments, no  
11 later than September 1, 2001.

12           Section 175. The Department of Management Services  
13 shall adopt, amend, or repeal rules as necessary to effectuate  
14 the provisions of chapter 109, Florida Statutes, as created by  
15 this act, and in accordance with the authority granted to the  
16 department in chapter 109, Florida Statutes.

17           Section 176. Except as otherwise provided herein, this  
18 act shall take effect upon becoming a law.

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