

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
2		.	
3		.	
4		.	

ORIGINAL STAMP BELOW

The Conference Committee on CS for SB 466 offered the following:

**Conference Committee Amendment (with title amendment)**

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

Section 1. Paragraph (h) of subsection (3) of section 20.23, Florida Statutes, is amended to read:

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

(3)

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. ~~To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with~~

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1 ~~the requirements of this section, the agency head may appoint~~  
2 ~~the inspector general to a classification level within the~~  
3 ~~Career Service System that is equivalent to that provided for~~  
4 ~~in part III of chapter 110.~~The inspector general may be  
5 organizationally located within another unit of the department  
6 for administrative purposes, but shall function independently  
7 and be directly responsible to the secretary pursuant to s.  
8 20.055. The duties of the inspector general shall include, but  
9 are not restricted to, reviewing, evaluating, and reporting on  
10 the policies, plans, procedures, and accounting, financial,  
11 and other operations of the department and recommending  
12 changes for the improvement thereof, as well as performing  
13 audits of contracts and agreements between the department and  
14 private entities or other governmental entities. The inspector  
15 general shall give priority to reviewing major parts of the  
16 department's accounting system and central office monitoring  
17 function to determine whether such systems effectively ensure  
18 accountability and compliance with all laws, rules, policies,  
19 and procedures applicable to the operation of the department.  
20 The inspector general shall also give priority to assessing  
21 the department's management information systems as required by  
22 s. 282.318. The internal audit function shall use the  
23 necessary expertise, in particular, engineering, financial,  
24 and property appraising expertise, to independently evaluate  
25 the technical aspects of the department's operations. The  
26 inspector general shall have access at all times to any  
27 personnel, records, data, or other information of the  
28 department and shall determine the methods and procedures  
29 necessary to carry out his or her duties. The inspector  
30 general is responsible for audits of departmental operations  
31 and for audits of consultant contracts and agreements, and

1 such audits shall be conducted in accordance with generally  
2 accepted governmental auditing standards. The inspector  
3 general shall annually perform a sufficient number of audits  
4 to determine the efficiency and effectiveness, as well as  
5 verify the accuracy of estimates and charges, of contracts  
6 executed by the department with private entities and other  
7 governmental entities. The inspector general has the sole  
8 responsibility for the contents of his or her reports, and a  
9 copy of each report containing his or her findings and  
10 recommendations shall be furnished directly to the secretary  
11 and the commission.

12           2. In addition to the authority and responsibilities  
13 herein provided, the inspector general is required to report  
14 to the:

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

29           b. Transportation Commission and the Legislature any  
30 actions by the secretary that prohibit the inspector general  
31 from initiating, carrying out, or completing any audit after

1 the inspector general has decided to initiate, carry out, or  
2 complete such audit. The secretary shall, within 30 days  
3 after transmission of the report, set forth in a statement to  
4 the Transportation Commission and the Legislature the reasons  
5 for his or her actions.

6 Section 2. Sections 110.108 and 110.109, Florida  
7 Statutes, are repealed.

8 Section 3. Section 110.1091, Florida Statutes, is  
9 amended to read:

10 110.1091 Program for assisting state employees;  
11 confidentiality.--~~An Each~~ employing state agency may provide a  
12 program to assist any of its state employees ~~employee~~ who have  
13 ~~has~~ a behavioral or medical disorder, substance abuse problem,  
14 or emotional difficulty that ~~which~~ affects their ~~the~~  
15 ~~employee's~~ job performance, through referral for counseling,  
16 therapy, or other professional treatment. Each employing state  
17 agency may designate community diagnostic and referral  
18 resources as necessary to implement the provisions of this  
19 section. Any communication between a state employee and  
20 personnel or service providers of a state employee assistance  
21 program relative to the employee's participation in the  
22 program shall be a confidential communication. Any routine  
23 monitoring of telephone calls by the state agency does not  
24 violate this provision. All records relative to that  
25 participation shall be confidential and exempt from the  
26 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
27 Constitution. This section is subject to the Open Government  
28 Sunset Review Act of 1995 in accordance with s. 119.15, and  
29 shall stand repealed on October 2, 2003, unless reviewed and  
30 saved from repeal through reenactment by the Legislature.

31 Section 4. Section 110.1095, Florida Statutes, is

1 repealed.

2 Section 5. Effective July 1, 2001, section 110.1099,  
3 Florida Statutes, is amended to read:

4 110.1099 Education and training opportunities for  
5 state employees.--

6 (1) Education and training are an integral component  
7 in improving the delivery of services to the public.  
8 Recognizing that the application of productivity-enhancing  
9 technology and practice demands ~~demand~~ continuous educational  
10 and training opportunities, a state employee ~~employees~~ may be  
11 authorized to receive a voucher or grant, for matriculation  
12 fees, fundable tuition waivers on a space-available basis or  
13 vouchers to attend work-related courses at public community  
14 colleges, public technical centers, or public universities.  
15 Student credit hours generated by state employee fee waivers  
16 shall be fundable credit hours. The department may implement  
17 the provisions of this section from funds appropriated to the  
18 department for this purpose. In the event insufficient funds  
19 are appropriated to the department, each state agency may  
20 supplement these funds to support the training and education  
21 needs of its employees from funds appropriated to the agency.

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

31 (3) An employee ~~Employees~~ who exhibits ~~exhibit~~

1 superior aptitude and performance may be authorized by that  
2 employee's agency head to take a paid educational leave leaves  
3 of absence for up to 1 academic year at a time, for specific  
4 approved work-related education and training. That employee

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

10 ~~(5) The Department of Management Services, in~~  
11 ~~consultation with the agencies and, to the extent applicable,~~  
12 ~~Florida's public postsecondary educational institutions, shall~~  
13 ~~adopt rules to implement and administer this section.~~

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

30 (5) The Department of Management Services, in  
31 consultation with the agencies and, to the extent applicable,

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 with Florida's public community colleges, public technical  
2 centers, and public universities, shall adopt rules to  
3 administer this section.

4 Section 6. Subsection (1) of section 110.1127, Florida  
5 Statutes, is amended to read:

6 110.1127 Employee security checks.--

7 (1) Each employing agency shall designate those  
8 employee ~~such of its positions that of state employment which,~~  
9 because of the special trust or responsibility or sensitive  
10 location of those ~~such~~ positions, require that persons  
11 occupying those ~~such~~ positions be subject to a security  
12 background check, including fingerprinting, as a condition of  
13 employment.

14 Section 7. Effective January 1, 2002, subsection (2)  
15 of section 110.113, Florida Statutes, is amended to read:

16 110.113 Pay periods for state officers and employees;  
17 salary payments by direct deposit.--

18 (2) As a condition of employment, a person appointed  
19 to a position in state government ~~on or after July 1, 1996,~~ is  
20 required to participate in the direct deposit program pursuant  
21 to s. 17.076. ~~This subsection does not apply to persons who~~  
22 ~~are in the employment of the state on July 1, 1996, and~~  
23 ~~subsequently receive promotion appointments, transfers, or~~  
24 ~~other changes in positions within the same personnel system~~  
25 ~~after July 1, 1996.~~ An employee may request an exemption from  
26 the provisions of this subsection when such employee can  
27 demonstrate a hardship or when such employee is in an  
28 other-personal-services position.

29 Section 8. Section 110.1245, Florida Statutes, is  
30 amended to read:

31 110.1245 Savings sharing program; bonus payments;

1 other awards ~~Meritorious service awards program.~~--

2 (1)(a) The Department of Management Services shall  
3 adopt rules that prescribe set policy, develop procedures, and  
4 promote a savings sharing program for an individual or group  
5 of employees who propose procedures or ideas that are adopted  
6 and that result in eliminating or reducing state expenditures,  
7 if such proposals are placed in effect and may be implemented  
8 under current statutory authority. ~~of meritorious service~~  
9 ~~awards, incentives, and recognition to employees who+~~

10 (a) ~~Propose procedures or ideas which are adopted and~~  
11 ~~which will result in increasing productivity, in eliminating~~  
12 ~~or reducing state expenditures or improving operations, or in~~  
13 ~~generating additional revenues, provided such proposals are~~  
14 ~~placed in effect and can be implemented under current~~  
15 ~~statutory authority; or~~

16 (b) Each agency head shall recommend employees  
17 individually or by group to be awarded an amount of money,  
18 which amount shall be directly related to the cost savings  
19 realized. Each proposed award and amount of money must be  
20 approved by the Legislative Budgeting Commission. ~~By their~~  
21 ~~superior accomplishments, make exceptional contributions to~~  
22 ~~the efficiency, economy, or other improvement in the~~  
23 ~~operations of the state government.~~

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



CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 employees within the judicial branch. ~~The component of the~~  
2 ~~program specified in paragraph (b) shall apply to all~~  
3 ~~employees of the state. No award granted under the component~~  
4 ~~of the program described in paragraph (a) shall exceed 10~~  
5 ~~percent of the first year's actual savings or actual revenue~~  
6 ~~increase, up to \$25,000, plus applicable taxes, unless a~~  
7 ~~larger award is made by the Legislature, and shall be paid~~  
8 ~~from the appropriation available to the judicial branch or~~  
9 ~~state agency affected by the award or from any specific~~  
10 ~~appropriation therefor. No award granted under the component~~  
11 ~~of the program described in paragraph (b) shall exceed \$1,000~~  
12 ~~plus applicable taxes per individual employee. The judicial~~  
13 ~~branch or an agency may award savings bonds or other items in~~  
14 ~~lieu of cash awards, provided that the cost of such item does~~  
15 ~~not exceed the limits specified in this subsection. In~~  
16 ~~addition, the judicial branch or a state agency may award~~  
17 ~~certificates, pins, plaques, letters of commendation, and~~  
18 ~~other tokens of recognition of meritorious service to an~~  
19 ~~employee eligible for recognition under either component of~~  
20 ~~the program, provided that the award may not cost in excess of~~  
21 ~~\$100 each plus applicable taxes.~~

22 ~~(d)(2)~~ The department and the judicial branch shall  
23 submit annually to the President of the Senate and the Speaker  
24 of the House of Representatives information that outlines each  
25 agency's level of participation in the savings sharing  
26 ~~meritorious service awards~~ program. The information shall  
27 ~~must~~ include, but is not limited to:

28 1.(a) The number of proposals made.

29 2.(b) The number of dollars and awards made to  
30 employees or groups for adopted proposals.

31 3.(c) The actual cost savings realized as a result of

1 implementing employee or group proposals.

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

4 ~~(d) Total expenditures incurred by the agency for~~  
5 ~~providing awards to employees for adopted proposals.~~

6 ~~(e) The number of employees recognized for superior~~  
7 ~~accomplishments.~~

8 ~~(f) The number of employees recognized for~~  
9 ~~satisfactory service to the state.~~

10 (2) In June of each year, bonuses shall be paid to  
11 employees from funds authorized by the Legislature in an  
12 appropriation specifically for bonuses. Each agency shall  
13 develop a plan for awarding lump-sum bonuses, which plan shall  
14 be submitted no later than September 15 of each year and  
15 approved by the Office of Policy and Budget in the Executive  
16 Office of the Governor. Such plan shall include, at a minimum,  
17 but is not limited to:

18 (a) A statement that bonuses are subject to specific  
19 appropriation by the Legislature.

20 (b) Eligibility criteria as follows:

21 1. The employee must have been employed prior to July  
22 1 of that fiscal year and have been continuously employed  
23 through the date of distribution.

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

27 3. The employee must have had no sustained  
28 disciplinary action during the period beginning July 1 through  
29 the date the bonus checks are distributed. Disciplinary  
30 actions include written reprimands, suspensions, dismissals,  
31 and involuntary or voluntary demotions that were associated

1 with a disciplinary action.

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

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

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

12 (c) A periodic evaluation process of the employee's  
13 performance.

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

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

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

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

29 (4) Each department head is authorized to incur  
30 expenditures to award suitable framed certificates, pins, or  
31 other tokens of recognition to state employees who have

1 achieved increments of 5 years of satisfactory service in the  
2 agency or to the state, in appreciation and recognition of  
3 such service. Such awards may not cost in excess of ~~\$100~~<sup>\$50</sup>  
4 each plus applicable taxes.

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

13 Section 9. Section 110.1246, Florida Statutes, is  
14 repealed.

15 Section 10. Subsections (1) and (2) of section  
16 110.129, Florida Statutes, are amended to read:

17 110.129 Services to political subdivisions.--

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

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

1 training, and employee productivity.

2 Section 11. Effective July 1, 2001, subsection (2) of  
3 section 110.131, Florida Statutes, is amended to read:

4 110.131 Other-personal-services temporary  
5 employment.--

6 (2) An agency may employ any qualified individual in  
7 other-personal-services temporary employment for 1,040 hours  
8 within any 12-month period. An extension beyond a total of  
9 1,040 hours within an agency for any individual requires a  
10 recommendation by the approval of the agency head and approval  
11 by the Executive Office of the Governor or a designee.

12 Approval of extensions shall be made in accordance with  
13 criteria established by the department. Each agency shall  
14 maintain employee information as specified by the department  
15 regarding each extension of other-personal-services temporary  
16 employment. The time limitation established by this  
17 subsection does not apply to board members, consultants,  
18 seasonal employees, institutional clients employed as part of  
19 their rehabilitation, ~~or~~ bona fide, degree-seeking students in  
20 accredited secondary or postsecondary educational programs,  
21 employees hired to deal with an emergency situation that  
22 affects the public health, safety, or welfare, or employees  
23 hired for a project that is identified by a specific  
24 appropriation or time-limited grant.

25 Section 12. Subsections (11), (18), and (19) of  
26 section 110.203, Florida Statutes, are amended to read:

27 110.203 Definitions.--For the purpose of this part and  
28 the personnel affairs of the state:

29 (11) "Pay plan" means a formal description of the  
30 philosophy, methods, procedures, and salary schedules ~~schedule~~  
31 for competitively compensating employees at market-based rates

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 for work performed.

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

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

14 Section 13. Effective July 1, 2001, subsections (22),  
15 (23), and (24) of section 110.203, Florida Statutes, are  
16 amended, and subsections (28), (29), and (30) are added to  
17 said section, to read:

18 110.203 Definitions.--For the purpose of this part and  
19 the personnel affairs of the state:

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

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

29 (24) "Layoff" means termination of employment due to  
30 abolishment of positions necessitated by a shortage of funds  
31 or work, or a material change in the duties or organization of

1 an agency, including the outsourcing or privatization of an  
2 activity or function previously performed by career service  
3 employees.

4 (28) "Firefighter" means a firefighter certified under  
5 chapter 633.

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

10 (30) "Professional health care provider" means  
11 registered nurses licensed under chapter 464, dentists  
12 licensed under chapter 466, psychologists licensed under  
13 chapter 490 or chapter 491, nutritionists or dietitians  
14 licensed under part X of chapter 468, pharmacists licensed  
15 under chapter 465, psychological specialists licensed under  
16 chapter 491, physical therapists licensed under chapter 486,  
17 and speech therapists licensed under part I of chapter 468.

18 Section 14. Section 110.2035, Florida Statutes, is  
19 created to read:

20 110.2035 Classification and compensation program.--

21 (1) The Department of Management Services, in  
22 consultation with the Executive Office of the Governor and the  
23 Legislature, shall develop a classification and compensation  
24 program. This program shall be developed for use by all state  
25 agencies and shall address Career Service, Select Exempt  
26 Service, and Senior Management Service classes.

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

28 (a) A position classification system using no more  
29 than 50 occupational groups and up to a 6-class series  
30 structure for each occupation within an occupational group.

31 Additional occupational groups may be established only by the

1 Executive Office of the Governor after consultation with the  
2 Legislature.

3 (b) A pay plan that shall provide broad-based salary  
4 ranges for each occupational group.

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

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

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

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

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

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

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



1           (6) The department shall establish, by rule,  
2 guidelines with respect to, and shall delegate to the  
3 employing agencies, where appropriate, the authority to  
4 administer the following:

5           (a) Shift differentials.

6           (b) On-call fees.

7           (c) Hazardous-duty pay.

8           (d) Advanced appointment rates.

9           (e) Salary increase and decrease corrections.

10          (f) Lead-worker pay.

11          (g) Temporary special duties pay.

12          (h) Trainer-additive pay.

13          (i) Competitive area differentials.

14          (j) Coordinator pay.

15          (k) Critical market pay.

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

29           Section 15. Subsection (2) of section 110.205, Florida  
30 Statutes, is amended, and subsection (7) is added to said  
31 section, to read:

1           110.205 Career service; exemptions.--

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

8           (a) All officers of the executive branch elected by  
9 popular vote and persons appointed to fill vacancies in such  
10 offices. Unless otherwise fixed by law, the salary and  
11 benefits for any such officer who serves as the head of a  
12 department shall be set by the department in accordance with  
13 the rules of the Senior Management Service.

14           (b) All members, officers, and employees of the  
15 legislative branch, except for the members, officers, and  
16 employees of the Florida Public Service Commission.

17           (c) All members, officers, and employees of the  
18 judicial branch.

19           (d) All officers and employees of the State University  
20 System and the Correctional Education Program within the  
21 Department of Corrections, and the academic personnel and  
22 academic administrative personnel of the Florida School for  
23 the Deaf and the Blind. In accordance with the provisions of  
24 chapter 242, the salaries for academic personnel and academic  
25 administrative personnel of the Florida School for the Deaf  
26 and the Blind shall be set by the board of trustees for the  
27 school, subject only to the approval of the State Board of  
28 Education. The salaries for all instructional personnel and  
29 all administrative and noninstructional personnel of the  
30 Correctional Education Program shall be set by the Department  
31 of Corrections, subject to the approval of the Department of

1 Management Services.

2 (e) All members of state boards and commissions,  
3 however selected. Unless otherwise fixed by law, the salary  
4 and benefits for any full-time board or commission member  
5 shall be set by the department in accordance with the rules of  
6 the Senior Management Service.

7 (f) Judges, referees, and receivers.

8 (g) Patients or inmates in state institutions.

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

17 (i) The appointed secretaries, assistant secretaries,  
18 deputy secretaries, and deputy assistant secretaries of all  
19 departments; the executive directors, assistant executive  
20 directors, deputy executive directors, and deputy assistant  
21 executive directors of all departments; and the directors of  
22 all divisions and those positions determined by the department  
23 to have managerial responsibilities comparable to such  
24 positions, which positions include, but are not limited to,  
25 program directors, assistant program directors, district  
26 administrators, deputy district administrators, the Director  
27 of Central Operations Services of the Department of Children  
28 and Family Services, and the State Transportation Planner,  
29 State Highway Engineer, State Public Transportation  
30 Administrator, district secretaries, district directors of  
31 planning and programming, production, and operations, and the

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 managers of the offices specified in s. 20.23(3)(d)2., of the  
2 Department of Transportation. Unless otherwise fixed by law,  
3 the department shall set the salary and benefits of these  
4 positions in accordance with the rules of the Senior  
5 Management Service.

6 (j) The personal secretary to the incumbent of each  
7 position exempted in paragraph (a), and to each appointed  
8 secretary, assistant secretary, deputy secretary, executive  
9 director, assistant executive director, and deputy executive  
10 director of each department under paragraph (i). Unless  
11 otherwise fixed by law, the department shall set the salary  
12 and benefits of these positions in accordance with the rules  
13 of the Selected Exempt Service.

14 (k) All officers and employees in the office of the  
15 Governor, including all employees at the Governor's mansion,  
16 and employees within each separate budget entity, as defined  
17 in chapter 216, assigned to the Governor. Unless otherwise  
18 fixed by law, the salary and benefits of these positions shall  
19 be set by the department as follows:

20 1. The chief of staff, the assistant or deputy chief  
21 of staff, general counsel, Director of Legislative Affairs,  
22 chief inspector general, Director of Cabinet Affairs, Director  
23 of Press Relations, Director of Planning and Budgeting,  
24 director of administration, director of state-federal  
25 relations, Director of Appointments, Director of External  
26 Affairs, Deputy General Counsel, Governor's Liaison for  
27 Community Development, Chief of Staff for the Lieutenant  
28 Governor, Deputy Director of Planning and Budgeting, policy  
29 coordinators, and the director of each separate budget entity  
30 shall have their salaries and benefits established by the  
31 department in accordance with the rules of the Senior

1 Management Service.

2           2. The salaries and benefits of positions not  
3 established in sub-subparagraph a. shall be set by the  
4 employing agency. Salaries and benefits of employees whose  
5 professional training is comparable to that of licensed  
6 professionals under paragraph (q), or whose administrative  
7 responsibility is comparable to a bureau chief shall be set by  
8 the Selected Exempt Service. The department shall make the  
9 comparability determinations. Other employees shall have  
10 benefits set comparable to legislative staff, except leave  
11 shall be comparable to career service as if career service  
12 employees.

13           (1) All assistant division director, deputy division  
14 director, and bureau chief positions in any department, and  
15 those positions determined by the department to have  
16 managerial responsibilities comparable to such positions,  
17 which positions include, but are not limited to, positions in  
18 the Department of Health, the Department of Children and  
19 Family Services, and the Department of Corrections that are  
20 assigned primary duties of serving as the superintendent or  
21 assistant superintendent, or warden or assistant warden, of an  
22 institution; positions in the Department of Corrections that  
23 are assigned primary duties of serving as the circuit  
24 administrator or deputy circuit administrator; positions in  
25 the Department of Transportation that are assigned primary  
26 duties of serving as regional toll managers and managers of  
27 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions  
28 in the Department of Environmental Protection that are  
29 assigned the duty of an Environmental Administrator or program  
30 administrator; those positions described in s. 20.171 as  
31 included in the Senior Management Service; and positions in

1 the Department of Health that are assigned the duties of  
2 Environmental Administrator, Assistant County Health  
3 Department Director, and County Health Department Financial  
4 Administrator. Unless otherwise fixed by law, the department  
5 shall set the salary and benefits of these positions in  
6 accordance with the rules established for the Selected Exempt  
7 Service.

8 (m)1.a. In addition to those positions exempted by  
9 other paragraphs of this subsection, each department head may  
10 designate a maximum of 20 policymaking or managerial  
11 positions, as defined by the department and approved by the  
12 Administration Commission, as being exempt from the Career  
13 Service System. Career service employees who occupy a position  
14 designated as a position in the Selected Exempt Service under  
15 this paragraph shall have the right to remain in the Career  
16 Service System by opting to serve in a position not exempted  
17 by the employing agency. Unless otherwise fixed by law, the  
18 department shall set the salary and benefits of these  
19 positions in accordance with the rules of the Selected Exempt  
20 Service; provided, however, that if the agency head determines  
21 that the general counsel, chief Cabinet aide, public  
22 information administrator or comparable position for a Cabinet  
23 officer, inspector general, or legislative affairs director  
24 has both policymaking and managerial responsibilities and if  
25 the department determines that any such position has both  
26 policymaking and managerial responsibilities, the salary and  
27 benefits for each such position shall be established by the  
28 department in accordance with the rules of the Senior  
29 Management Service.

30 b. In addition, each department may designate one  
31 additional position in the Senior Management Service if that

1 position reports directly to the agency head or to a position  
2 in the Senior Management Service and if any additional costs  
3 are absorbed from the existing budget of that department.

4         2. If otherwise exempt, employees of the Public  
5 Employees Relations Commission, the Commission on Human  
6 Relations, and the Unemployment Appeals Commission, upon the  
7 certification of their respective commission heads, may be  
8 provided for under this paragraph as members of the Senior  
9 Management Service, if otherwise qualified. However, the  
10 deputy general counsels of the Public Employees Relations  
11 Commission shall be compensated as members of the Selected  
12 Exempt Service.

13         (n) The executive director, deputy executive director,  
14 general counsel, official reporters, and division directors  
15 within the Public Service Commission and the personal  
16 secretary and personal assistant to each member of the Public  
17 Service Commission. Unless otherwise fixed by law, the salary  
18 and benefits of the executive director, deputy executive  
19 directors, general counsel, Director of Administration,  
20 Director of Appeals, Director of Auditing and Financial  
21 Analysis, Director of Communications, Director of Consumer  
22 Affairs, Director of Electric and Gas, Director of Information  
23 Processing, Director of Legal Services, Director of Records  
24 and Reporting, Director of Research, and Director of Water and  
25 Sewer shall be set by the department in accordance with the  
26 rules of the Senior Management Service. The salary and  
27 benefits of the personal secretary and the personal assistant  
28 of each member of the commission and the official reporters  
29 shall be set by the department in accordance with the rules of  
30 the Selected Exempt Service, notwithstanding any salary  
31 limitations imposed by law for the official reporters.

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 (o)1. All military personnel of the Department of  
2 Military Affairs. Unless otherwise fixed by law, the salary  
3 and benefits for such military personnel shall be set by the  
4 Department of Military Affairs in accordance with the  
5 appropriate military pay schedule.

6 2. The military police chiefs, military police  
7 officers, firefighter trainers, firefighter-rescuers, and  
8 electronic security system technicians shall have salary and  
9 benefits the same as career service employees.

10 (p) The staff directors, assistant staff directors,  
11 district program managers, district program coordinators,  
12 district subdistrict administrators, district administrative  
13 services directors, district attorneys, and the Deputy  
14 Director of Central Operations Services of the Department of  
15 Children and Family Services and the county health department  
16 directors and county health department administrators of the  
17 Department of Health. Unless otherwise fixed by law, the  
18 department shall establish the salary range and benefits for  
19 these positions in accordance with the rules of the Selected  
20 Exempt Service.

21 (q) All positions not otherwise exempt under this  
22 subsection which require as a prerequisite to employment:  
23 licensure as a physician pursuant to chapter 458, licensure as  
24 an osteopathic physician pursuant to chapter 459, licensure as  
25 a chiropractic physician pursuant to chapter 460, including  
26 those positions which are occupied by employees who are  
27 exempted from licensure pursuant to s. 409.352; licensure as  
28 an engineer pursuant to chapter 471, which are supervisory  
29 positions ~~except for such positions in the Department of~~  
30 ~~Transportation~~; or for 12 calendar months, which require as a  
31 prerequisite to employment that the employee have received the



1 degree of Bachelor of Laws or Juris Doctor from a law school  
2 accredited by the American Bar Association and thereafter  
3 membership in The Florida Bar, except for any attorney who  
4 serves as an administrative law judge pursuant to s. 120.65 or  
5 for hearings conducted pursuant to s. 120.57(1)(a). Unless  
6 otherwise fixed by law, the department shall set the salary  
7 and benefits for these positions in accordance with the rules  
8 established for the Selected Exempt Service.

9 (r) The statewide prosecutor in charge of the Office  
10 of Statewide Prosecution of the Department of Legal Affairs  
11 and all employees in the office. The Department of Legal  
12 Affairs shall set the salary of these positions.

13 (s) The executive director of each board or commission  
14 established within the Department of Business and Professional  
15 Regulation or the Department of Health. Unless otherwise fixed  
16 by law, the department shall establish the salary and benefits  
17 for these positions in accordance with the rules established  
18 for the Selected Exempt Service.

19 (t) All officers and employees of the State Board of  
20 Administration. The State Board of Administration shall set  
21 the salaries and benefits of these positions.

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

25 (v) Effective July 1, 2001, managerial employees, as  
26 defined in s. 447.203(4), confidential employees, as defined  
27 in s. 447.203(5), and supervisory employees who spend the  
28 majority of their time communicating with, motivating,  
29 training, and evaluating employees, and planning and directing  
30 employees' work, and who have the authority to hire, transfer,  
31 suspend, lay off, recall, promote, discharge, assign, reward,

1 or discipline subordinate employees or effectively recommend  
2 such action, including all employees serving as supervisors,  
3 administrators, and directors. Excluded are employees also  
4 designated as special risk or special risk administrative  
5 support, attorneys who serve as administrative law judges  
6 pursuant to s. 120.65 or for hearings conducted pursuant to s.  
7 120.57(1)(a). Additionally, registered nurses licensed under  
8 chapter 464, dentists licensed under chapter 466,  
9 psychologists licensed under chapter 490 or chapter 491,  
10 nutritionists or dietitians licensed under part X of chapter  
11 468, pharmacists licensed under chapter 465, psychological  
12 specialists licensed under chapter 491, physical therapists  
13 licensed under chapter 486, and speech therapists licensed  
14 under part I of chapter 468 are excluded, unless otherwise  
15 collectively bargained.

16 (7) CARRYING LEAVE FORWARD.--If an employee is  
17 transferred or otherwise moves from the Career Service System  
18 into the Selected Exempt Service, all of the employee's unused  
19 annual leave, unused sick leave, and unused compensatory leave  
20 shall carry forward with the employee.

21 Section 16. Effective June 30, 2002, sections 110.207  
22 and 110.209, Florida Statutes, are repealed.

23 Section 17. Section 110.211, Florida Statutes, is  
24 amended to read:

25 110.211 Recruitment.--

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

1 underrepresented in the workforce of the employing agency.

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

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

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

14 (4)(5) ~~All recruitment literature printed after July~~  
15 ~~1, 1979, involving state position vacancies shall contain the~~  
16 ~~phrase "An Equal Opportunity Employer/Affirmative Action~~  
17 ~~Employer."~~

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

27 Section 18. Section 110.213, Florida Statutes, is  
28 amended to read:

29 110.213 Selection.--

30 (1) ~~The department shall have the responsibility for~~  
31 ~~determining guidelines for selection procedures to be utilized~~

1 ~~by the employing agencies.~~

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

8 ~~(1)(3)~~ Selection for appointment from among the most  
9 qualified candidates available eligibles shall be the sole  
10 responsibility of the employing agency. Effective July 1,  
11 2001, all new employees must successfully complete at least a  
12 1-year probationary period before attainment of permanent  
13 status.

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

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

31 Section 19. Effective July 1, 2001, subsection (6) is

1 added to section 110.219, Florida Statutes, and, effective  
2 January 1, 2002, subsection (7) is added to said section, to  
3 read:

4           110.219 Attendance and leave; general policies.--  
5           (6) The leave benefits provided to Senior Management  
6 Service employees shall not exceed those provided to employees  
7 in the Select Exempt Service.

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

11           (a) A permanent career service employee must have an  
12 annual leave balance of no less than 24 hours, after the  
13 payout, in order to qualify for this benefit.

14           (b) No permanent career service employee shall receive  
15 a payout of greater than 240 hours over the course of the  
16 employee's career with the state, including any leave received  
17 at the time of separation.

18           Section 20. Section 110.224, Florida Statutes, is  
19 amended to read:

20           110.224 Public employee ~~Review and~~ performance  
21 evaluation ~~planning~~ system.--A public employee ~~review and~~  
22 performance ~~evaluation~~ ~~planning~~ system shall be established as  
23 a basis for evaluating and improving the performance of the  
24 state's workforce, ~~to provide documentation in support of~~  
25 ~~recommendations for salary increases, promotions, demotions,~~  
26 ~~reassignments, or dismissals,~~ to inform employees of strong  
27 and weak points in the employee's performance, to identify  
28 ~~improvements expected, and current and future training needs,~~  
29 and to award lump-sum bonuses in accordance with s.  
30 110.1245(2); ~~and to assist in determining the order of layoff~~  
31 ~~and reemployment.~~

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

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

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

24           Section 21. Subsections (2) and (3) of section  
25 110.227, Florida Statutes, are amended to read:

26           110.227 Suspensions, dismissals, reductions in pay,  
27 demotions, layoffs, transfers, and grievances.--

28           (2) The department shall establish rules and  
29 procedures for the suspension, reduction in pay, transfer,  
30 layoff, demotion, and dismissal of employees in the career  
31 service. Except with regard to law enforcement or correctional

1 officers, firefighters, or professional health care providers,  
2 rules regarding layoff procedures shall not include any system  
3 whereby a career service employee with greater seniority has  
4 the option of selecting a different position not being  
5 eliminated, but either vacant or already occupied by an  
6 employee of less seniority, and taking that position, commonly  
7 referred to as "bumping." For the implementation of layoffs as  
8 defined in s. 110.203, the department shall develop rules  
9 requiring that consideration be given to comparative merit,  
10 demonstrated skills, and the employee's experience.Such rules  
11 shall be approved by the Administration Commission prior to  
12 their adoption by the department.

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

23 (b) With regard to law enforcement or correctional  
24 officers, firefighters, or professional health care providers,  
25 layoff procedures shall be developed to establish the relative  
26 merit and fitness of employees and shall include a formula for  
27 uniform application among all employees in the competitive  
28 area, taking into consideration the type of appointment, the  
29 length of service, and the evaluations of the employee's  
30 performance within the last 5 years of employment.

31 Section 22. Effective July 1, 2001, subsections (1),

1 (4), (5), (6), and (7) of section 110.227, Florida Statutes,  
2 are amended to read:

3 110.227 Suspensions, dismissals, reductions in pay,  
4 demotions, layoffs, transfers, and grievances.--

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

17 (4) A grievance process shall be available to  
18 permanent career service employees. A grievance is defined as  
19 the dissatisfaction that occurs when an employee believes that  
20 any condition affecting the employee is unjust, inequitable,  
21 or a hinderance to effective operation. Claims of  
22 discrimination and sexual harassment or claims related to  
23 suspensions, reductions in pay, demotions, and dismissals are  
24 not subject to the career service grievance process. The  
25 following procedures shall apply to any grievance filed  
26 pursuant to this subsection:

27 (a) Step One.--The employee may submit a signed,  
28 written grievance on a form provided by the agency to his or  
29 her supervisor within 7 calendar days following the occurrence  
30 of the event giving rise to the grievance. The supervisor must  
31 meet with the employee to discuss the grievance within 5



1 business days following receipt of the grievance.  
2 (b) Step Two.--If the employee is dissatisfied with  
3 the response of his or her supervisor, the employee may submit  
4 the written grievance to the agency head or his or her  
5 designee within 2 business days following the meeting with his  
6 or her supervisor. The agency head or his or her designee must  
7 meet with the employee to discuss the grievance within 5  
8 business days following receipt of the grievance. The agency  
9 head or his or her designee must respond in writing to the  
10 employee within 5 business days following the meeting. The  
11 written decision of the agency head shall be the final  
12 authority for all grievances filed pursuant to this  
13 subsection. Such grievances may not be appealed beyond Step  
14 Two.~~Any permanent career service employee subject to~~  
15 ~~reduction in pay, transfer, layoff, or demotion from a class~~  
16 ~~in which he or she has permanent status in the Career Service~~  
17 ~~System shall be notified in writing by the agency prior to its~~  
18 ~~taking such action. The notice may be delivered to the~~  
19 ~~employee personally or may be sent by certified mail with~~  
20 ~~return receipt requested. Such actions shall be appealable to~~  
21 ~~the Public Employees Relations Commission, pursuant to s.~~  
22 ~~447.208 and rules adopted by the commission.~~  
23 (5)(a) A Any permanent career service employee who is  
24 subject to a suspension, reduction in pay, demotion, or  
25 dismissal shall receive written notice of such action at least  
26 10 days prior to the date such action is to be taken.  
27 Subsequent to such notice, and prior to the date the action is  
28 to be taken, the affected employee shall be given an  
29 opportunity to appear before the agency or official taking the  
30 action to answer orally and in writing the charges against him  
31 or her. The notice to the employee required by this paragraph

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 may be delivered to the employee personally or may be sent by  
2 certified mail with return receipt requested. Such actions  
3 shall be appealable to the Public Employees Relations  
4 Commission as provided in subsection (6). Written notice of  
5 any such appeal shall be filed by the employee with the  
6 commission within 14 calendar days after the date on which the  
7 notice of suspension, reduction in pay, demotion, or dismissal  
8 is received by the employee.~~An employee who is suspended or~~  
9 ~~dismissed shall be entitled to a hearing before the Public~~  
10 ~~Employees Relations Commission or its designated agent~~  
11 ~~pursuant to s. 447.208 and rules adopted by the commission.~~

12 (b) In extraordinary situations such as when the  
13 retention of a permanent career service employee would result  
14 in damage to state property, would be detrimental to the best  
15 interest of the state, or would result in injury to the  
16 employee, a fellow employee, or some other person, such  
17 employee may be suspended or dismissed without 10 days' prior  
18 notice, provided that written or oral notice of such action,  
19 evidence of the reasons therefor, and an opportunity to rebut  
20 the charges are furnished to the employee prior to such  
21 dismissal or suspension. Such notice may be delivered to the  
22 employee personally or may be sent by certified mail with  
23 return receipt requested. Agency compliance with the foregoing  
24 procedure requiring notice, evidence, and an opportunity for  
25 rebuttal must be substantiated. Any employee who is suspended  
26 or dismissed pursuant to the provisions of this paragraph may  
27 appeal to ~~shall be entitled to a hearing before~~ the Public  
28 Employees Relations Commission as provided in subsection (6).  
29 Written notice of any such appeal shall be filed with the  
30 commission by the employee within 14 days after the date on  
31 which the notice of suspension, reduction in pay, demotion, or

1 dismissal is received by the employee or its designated agent  
2 pursuant to s. 447.208, except that such hearing shall be held  
3 no more than 20 days after the filing of the notice of appeal  
4 by the employee.

5 (6) The following procedures shall apply to appeals  
6 filed pursuant to subsection (5), with the Public Employees  
7 Relations Commission, hereinafter referred to as the  
8 commission:

9 (a) The commission must conduct a hearing within 30  
10 calendar days following the filing of a notice of appeal. No  
11 extension of time for the hearing may exceed 30 calendar days,  
12 absent exceptional circumstances, and no extension of time may  
13 be granted without the consent of all parties. Discovery may  
14 be granted only upon the showing of extraordinary  
15 circumstances. A party requesting discovery shall demonstrate  
16 a substantial need for the information requested and an  
17 inability to obtain relevant information by other means.  
18 Except where inconsistent with the requirements of this  
19 subsection, the provisions of s. 447.503(4) and (5) and  
20 chapter 120 apply to proceedings held pursuant to this  
21 subsection.

22 (b) A person may represent himself or herself in  
23 proceedings before the commission or may be represented by  
24 legal counsel or by any individual who qualifies as a  
25 representative pursuant to rules adopted by the commission.

26 (c) If the commission finds that cause did not exist  
27 for the agency action, the commission shall reverse the  
28 decision of the agency head and the employee shall be  
29 reinstated with or without back pay. If the commission finds  
30 that cause existed for the agency action, the commission shall  
31 affirm the decision of the agency head. The commission may not

1 reduce the penalty imposed by the agency head, except in the  
2 case of law enforcement or correctional officers,  
3 firefighters, and professional health care providers, if the  
4 commission makes specific written findings of mitigation.

5 (d) A recommended order shall be issued by the hearing  
6 officer within 30 days following the hearing. Exceptions to  
7 the recommended order shall be filed within 5 business days  
8 after the recommended order is issued. The final order shall  
9 be filed by the commission no later than 30 calendar days  
10 after the hearing or after the filing of exceptions or oral  
11 arguments if granted.

12 (e) Final orders issued by the commission pursuant to  
13 paragraph (d) shall be reviewable as provided in s. 447.504. A  
14 grievance process shall be available to career service  
15 employees. A grievance is defined as the dissatisfaction that  
16 occurs when an employee thinks or feels that any condition  
17 affecting the employee is unjust, inequitable, or a hinderance  
18 to effective operation, or creates a problem, except that an  
19 employee shall not have the right to file a grievance against  
20 performance evaluations unless it is alleged that the  
21 evaluation is based on factors other than the employee's  
22 performance. Claims of discrimination and sexual harassment,  
23 suspensions, reductions in pay, transfers, layoffs, demotions,  
24 and dismissals are not subject to the career service grievance  
25 process.

26 (7) Other than for law enforcement or correctional  
27 officers, firefighters, and professional health care  
28 providers, each suspension, dismissal, demotion, or reduction  
29 in pay must be reviewed without consideration of any other  
30 case or set of facts. The department shall adopt rules for  
31 administration of the grievance process for career service

1 ~~employees. Such rules shall establish agency grievance~~  
2 ~~procedures, eligibility, filing deadlines, forms, and review~~  
3 ~~and evaluation governing the grievance process.~~

4 Section 23. Paragraph (a) of subsection (4) of section  
5 110.233, Florida Statutes, is amended to read:

6 110.233 Political activities and unlawful acts  
7 prohibited.--

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

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

26 Section 24. Subsection (1) of section 110.235, Florida  
27 Statutes, is amended to read:

28 110.235 Training.--

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

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

5 Section 25. Section 110.401, Florida Statutes, is  
6 amended to read:

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

20 Section 26. Subsections (3), (4), and (5) of section  
21 110.403, Florida Statutes, are amended to read:

22 110.403 Powers and duties of the department of  
23 ~~Management Services~~.--

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

26 (a) To establish and administer a professional  
27 development program that ~~which~~ shall provide for the  
28 systematic development of managerial, executive, or  
29 administrative skills. Such a program shall include the  
30 following topics:

31 1. Improving the performance of individual employees.

1 This topic provides skills in understanding and motivating  
2 individual performance, providing effective and timely  
3 evaluations of employees, and making recommendations on  
4 performance incentives and disincentives.

5 2. Improving the performance of groups of employees.  
6 This topic provides skills in creating and maintaining  
7 productive workgroups and making recommendations on  
8 performance incentives and disincentives.

9 3. Relating the efforts of employees to the goals of  
10 the organization. This topic provides skills in linking the  
11 work of individual employees to the goals of the agency  
12 program, service, or activity.

13 4. Strategic planning. This topic provides the skills  
14 for defining agency business processes, measuring performance  
15 of such processes, and reengineering such processes for  
16 improved efficiency and effectiveness.

17 5. Team leadership. This topic provides skills in  
18 effective group processes for organizational motivation and  
19 productivity based on proven business and military  
20 applications that emphasize respect for and courtesy to the  
21 public.

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

24 (c) To approve contracts of employing agencies with  
25 persons engaged in the business of conducting multistate  
26 executive searches to identify qualified and available  
27 applicants for Senior Management Service positions for which  
28 the department ~~of Management Services~~ sets salaries in  
29 accordance with the classification and pay plan. Such  
30 contracts may be entered by the agency head only after  
31 completion of an unsuccessful in-house search. The department

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 ~~of Management Services~~ shall establish, by rule, the minimum  
2 qualifications for persons desiring to conduct executive  
3 searches, including a requirement for the use of contingency  
4 contracts. These ~~Such~~ rules shall ensure that such persons  
5 possess the requisite capacities to perform effectively at  
6 competitive industry prices. These ~~The Department of~~  
7 ~~Management Services shall make the rules shall also required~~  
8 ~~pursuant to this paragraph in such a manner as to~~ comply with  
9 state and federal laws and regulations governing equal  
10 opportunity employment.

11 (4) All policies and procedures adopted by the  
12 department ~~of Management Services~~ regarding the Senior  
13 Management Service shall comply with all federal regulations  
14 necessary to permit the state agencies to be eligible to  
15 receive federal funds.

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

24 Section 27. Effective July 1, 2001, paragraph (a) of  
25 subsection (1) of section 110.403, Florida Statutes, is  
26 amended to read:

27 110.403 Powers and duties of the Department of  
28 Management Services.--

29 (1) In order to implement the purposes of this part,  
30 the Department of Management Services, after approval by the  
31 Administration Commission, shall adopt and amend rules



CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 providing for:

2 (a) A system for employing, promoting, or reassigning  
3 managers that is responsive to organizational or program  
4 needs. In no event shall the number of positions included in  
5 the Senior Management Service exceed 1.0 ~~0.5~~ percent of the  
6 total full-time equivalent positions in the career service.  
7 The department shall deny approval to establish any position  
8 within the Senior Management Service which would exceed the  
9 limitation established in this paragraph. The department  
10 shall report that the limitation has been reached to the  
11 Governor, the President of the Senate, and the Speaker of the  
12 House of Representatives, as soon as practicable after such  
13 event occurs. Employees in the Senior Management Service shall  
14 serve at the pleasure of the agency head and shall be subject  
15 to suspension, dismissal, reduction in pay, demotion,  
16 transfer, or other personnel action at the discretion of the  
17 agency head. Such personnel actions are exempt from the  
18 provisions of chapter 120.

19 Section 28. Section 110.601, Florida Statutes, is  
20 amended to read:

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

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 employees, and, to this end, technical training and management  
2 development programs are regarded as a major administrative  
3 function within agencies.

4 Section 29. Effective July 1, 2001, section 110.602,  
5 Florida Statutes, is amended to read:

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

28 Section 30. Subsection (1) of section 110.605, Florida  
29 Statutes, is amended to read:

30 110.605 Powers and duties; personnel rules, records,  
31 reports, and performance appraisal.--

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

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

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

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

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

29           ~~(d)(e)~~ The department shall develop a program of  
30 affirmative and positive actions that will ensure full  
31 utilization of women and minorities in Selected Exempt Service

1 positions.

2 Section 31. Paragraph (c) of subsection (2) of section  
3 110.606, Florida Statutes, is amended to read:

4 110.606 Selected Exempt Service; data collection.--

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

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

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

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

22 Section 32. Subsection (2) of section 288.708, Florida  
23 Statutes, is amended to read:

24 288.708 Executive director; employees.--

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

29 Section 33. Paragraph (a) of subsection (3) of section  
30 440.4416, Florida Statutes, is amended to read:

31 440.4416 Workers' Compensation Oversight Board.--

1           (3) EXECUTIVE DIRECTOR; EXPENSES.--

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

9           Section 34. Notwithstanding section 216.351, Florida  
10 Statutes, paragraph (c) of subsection (1) of section 216.262,  
11 Florida Statutes, is amended to read:

12           216.262 Authorized positions.--

13           (1)

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

28           2. The Chief Justice of the Supreme Court shall have  
29 the authority to establish procedures for the judicial branch  
30 to add and delete authorized positions or transfer authorized  
31 positions from one budget entity to another budget entity, and

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 to add and delete authorized positions within the same budget  
2 entity, when such changes are consistent with legislative  
3 policy and intent and do not conflict with spending policies  
4 specified in the General Appropriations Act.

5 3.a. A state agency may be eligible to retain salary  
6 dollars for authorized positions eliminated after July 1,  
7 2001. The agency must certify the eliminated positions to the  
8 Legislative Budgeting Commission.

9 b. The Legislative Budgeting Commission shall  
10 authorize the agency to retain 20 percent of the salary  
11 dollars associated with the eliminated positions and may  
12 authorize retention of a greater percentage. All such salary  
13 dollars shall be used for permanent salary increases.

14 Section 35. Section 447.201, Florida Statutes, is  
15 amended to read:

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

28 (1) Granting to public employees the right of  
29 organization and representation;

30 (2) Requiring the state, local governments, and other  
31 political subdivisions to negotiate with bargaining agents

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 duly certified to represent public employees;

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

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

8 Section 36. Effective July 1, 2001, subsections (1),  
9 (3), and (4) of section 447.205, Florida Statutes, are amended  
10 to read:

11 447.205 Public Employees Relations Commission.--

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

31 Beginning January 1, 1980, the chair shall be appointed for a

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

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

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

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

25 Section 37. Subsection (8) of section 447.207, Florida  
26 Statutes, is amended to read:

27 447.207 Commission; powers and duties.--

28 (8) ~~Pursuant to s. 447.208,~~The commission or its  
29 designated agent shall hear appeals arising out of any  
30 suspension, reduction in pay, ~~transfer, layoff,~~demotion, or  
31 dismissal of any permanent employee in the State Career



1 Service System in the manner provided in s. 110.227. ~~Written~~  
2 ~~notice of any such appeal shall be filed with the commission~~  
3 ~~within 14 calendar days after the date on which the notice of~~  
4 ~~suspension, reduction in pay, transfer, layoff, demotion, or~~  
5 ~~dismissal is received by the employee.~~

6 Section 38. Section 447.208, Florida Statutes, is  
7 amended to read:

8 447.208 Procedure with respect to certain appeals  
9 under s. 447.207.--

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

23 (2) This section does not prohibit any person from  
24 representing himself or herself in proceedings before the  
25 commission or from being represented by legal counsel or by  
26 any individual who qualifies as a representative pursuant to  
27 rules promulgated and adopted by the commission.

28 ~~(3) With respect to hearings relating to demotions,~~  
29 ~~suspensions, or dismissals pursuant to the provisions of this~~  
30 ~~section:~~

31 ~~(a) Upon a finding that just cause existed for the~~

1 ~~demotion, suspension, or dismissal, the commission shall~~  
2 ~~affirm the demotion, suspension, or dismissal.~~

3 ~~(b) Upon a finding that just cause did not exist for~~  
4 ~~the demotion, suspension, or dismissal, the commission may~~  
5 ~~order the reinstatement of the employee, with or without back~~  
6 ~~pay.~~

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

11 ~~(d) The commission is limited in its discretionary~~  
12 ~~reduction of dismissals and suspensions to consider only the~~  
13 ~~following circumstances:~~

14 ~~1. The seriousness of the conduct as it relates to the~~  
15 ~~employee's duties and responsibilities.~~

16 ~~2. Action taken with respect to similar conduct by~~  
17 ~~other employees.~~

18 ~~3. The previous employment record and disciplinary~~  
19 ~~record of the employee.~~

20 ~~4. Extraordinary circumstances beyond the employee's~~  
21 ~~control which temporarily diminished the employee's capacity~~  
22 ~~to effectively perform his or her duties or which~~  
23 ~~substantially contributed to the violation for which~~  
24 ~~punishment is being considered.~~

25  
26 ~~The agency may present evidence to refute the existence of~~  
27 ~~these circumstances.~~

28 ~~(3)(e) Any order of the commission issued under this~~  
29 ~~section pursuant to this subsection may include back pay, if~~  
30 ~~applicable, and an amount, to be determined by the commission~~  
31 ~~and paid by the agency, for reasonable attorney's fees,~~

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 witness fees, and other out-of-pocket expenses incurred during  
2 the prosecution of an appeal against an agency in which the  
3 commission sustains the employee. In determining the amount of  
4 an attorney's fee, the commission shall consider only the  
5 number of hours reasonably spent on the appeal, comparing the  
6 number of hours spent on similar cases ~~Career Service System~~  
7 ~~appeals~~ and the reasonable hourly rate charged in the  
8 geographic area for similar appeals, but not including  
9 litigation over the amount of the attorney's fee. This  
10 paragraph applies to future and pending cases.

11 Section 39. Paragraph (a) of subsection (5) of section  
12 447.507, Florida Statutes, is amended to read:

13 447.507 Violation of strike prohibition; penalties.--

14 (5) If the commission, after a hearing on notice  
15 conducted according to rules promulgated by the commission,  
16 determines that an employee has violated s. 447.505, it may  
17 order the termination of his or her employment by the public  
18 employer. Notwithstanding any other provision of law, a person  
19 knowingly violating the provision of said section may,  
20 subsequent to such violation, be appointed, reappointed,  
21 employed, or reemployed as a public employee, but only upon  
22 the following conditions:

23 (a) Such person shall be on probation for a period of  
24 18 6 months following his or her appointment, reappointment,  
25 employment, or reemployment, during which period he or she  
26 shall serve without permanent status and at the pleasure of  
27 the agency head tenure. ~~During this period, the person may be~~  
28 ~~discharged only upon a showing of just cause.~~

29 Section 40. Subsection (13) is added to section  
30 112.215, Florida Statutes, to read:

31 112.215 Government employees; deferred compensation

1 program.--

2 (13) When permitted by federal law, the plan  
3 administrator may provide for a pretax trustee-to-trustee  
4 transfer of amounts in a participant's deferred compensation  
5 account for the purchase of prior service credit in a public  
6 sector retirement system.

7 Section 41. Effective July 1, 2001, all powers,  
8 duties, functions, rules, records, personnel, property, and  
9 unexpended balances of appropriations, allocations, and other  
10 funds of the Public Employees Relations Commission relating to  
11 the commission's specified authority, powers, duties, and  
12 responsibilities are transferred by a type one transfer, as  
13 defined in s. 20.06(1), Florida Statutes, to the Department of  
14 Management Services. The independence of the commission in  
15 matters relating to the disposition of all cases, including  
16 Career Service appeals, shall be preserved.

17 Section 42. The Department of Management Services  
18 shall adopt rules as necessary to effectuate the provisions of  
19 chapter 110, Florida Statutes, as amended by this act, and in  
20 accordance with the authority granted to the department in  
21 chapter 110, Florida Statutes. All existing rules relating to  
22 chapter 110, Florida Statutes, are statutorily repealed  
23 January 1, 2002, unless otherwise readopted.

24 Section 43. Section 110.1315, Florida Statutes, is  
25 created to read:

26 110.1315 Alternative benefits; other-personal-services  
27 employees.--Upon review and recommendation of the department  
28 and approval of the Governor, the department may contract for  
29 the implementation of an alternative retirement income  
30 security program for eligible temporary and seasonal employees  
31 of the state who are compensated from appropriations for other

1 personal services. The contract may provide for a private  
2 vendor or vendors to administer the program under a  
3 defined-contribution plan under ss. 401(a) and 403(b) or 457  
4 of the Internal Revenue Code, and the program must provide  
5 retirement benefits as required under s. 3121(b)(7)(F) of the  
6 Internal Revenue Code. The department may develop a request  
7 for proposals and solicit qualified vendors to compete for the  
8 award of the contract. A vendor shall be selected on the basis  
9 of the plan that best serves the interest of the participating  
10 employees and the state. The proposal must comply with all  
11 necessary federal and state laws and rules.

12 Section 44. Subsections (1) and (2) of section  
13 447.403, Florida Statutes, are amended, and subsection (5) is  
14 added to said section, to read:

15 447.403 Resolution of impasses.--

16 (1) If, after a reasonable period of negotiation  
17 concerning the terms and conditions of employment to be  
18 incorporated in a collective bargaining agreement, a dispute  
19 exists between a public employer and a bargaining agent, an  
20 impasse shall be deemed to have occurred when one of the  
21 parties so declares in writing to the other party and to the  
22 commission. When an impasse occurs, the public employer or the  
23 bargaining agent, or both parties acting jointly, may appoint,  
24 or secure the appointment of, a mediator to assist in the  
25 resolution of the impasse. If the Governor is the public  
26 employer no mediator shall be appointed.

27 (2)(a) If no mediator is appointed, or upon the  
28 request of either party, the commission shall appoint, and  
29 submit all unresolved issues to, a special master acceptable  
30 to both parties. If the parties are unable to agree on the  
31 appointment of a special master, the commission shall appoint,

1 in its discretion, a qualified special master. However, if  
 2 the parties agree in writing to waive the appointment of a  
 3 special master, the parties may proceed directly to resolution  
 4 of the impasse by the legislative body pursuant to paragraph  
 5 (4)(d). Nothing in this section precludes the parties from  
 6 using the services of a mediator at any time during the  
 7 conduct of collective bargaining.

8 (b) If the Governor is the public employer, no special  
 9 master shall be appointed. The parties may proceed directly to  
 10 the Legislature for resolution of the impasse pursuant to  
 11 paragraph (4)(d).

12 (5)(a) Within 5 days after the beginning of the  
 13 impasse period in accordance with s. 216.163(6), each party  
 14 shall notify the President of the Senate and the Speaker of  
 15 the House of Representatives as to all unresolved issues. Upon  
 16 receipt of the notification, the presiding officers shall  
 17 appoint a joint select committee to review the position of the  
 18 parties and render a recommended resolution of all issues  
 19 remaining at impasse. The recommended resolution shall be  
 20 returned by the joint select committee to the presiding  
 21 officers not later than 10 days prior to the date upon which  
 22 the legislative session is scheduled to commence. During the  
 23 legislative session, the Legislature shall take action in  
 24 accordance with this section.

25 (b) Any actions taken by the Legislature shall bind  
 26 the parties in accordance with paragraph (4)(c).

27 Section 45. Notwithstanding section 216.351, Florida  
 28 Statutes, subsection (6) of section 216.163, Florida Statutes,  
 29 is amended to read:

30 216.163 Governor's recommended budget; form and  
 31 content; declaration of collective bargaining impasses.--

1           (6) At the time the Governor is required to furnish  
2 copies of his or her recommended budget to each senator and  
3 representative under s. 216.162(1), the Governor shall declare  
4 an impasse in all collective bargaining negotiations for which  
5 he or she is deemed to be the public employer and for which a  
6 collective bargaining agreement has not been executed. ~~Within~~  
7 ~~14 days thereafter, the Governor shall furnish the legislative~~  
8 ~~appropriations committees with documentation relating to the~~  
9 ~~last offer he or she made during such collective bargaining~~  
10 ~~negotiations or recommended to a mediator or special master~~  
11 ~~appointed to resolve the impasse.~~

12           Section 46. Alternative benefits; tax-sheltered annual  
13 leave and sick leave payments and special compensation  
14 payments.--

15           (1) The Department of Management Services has  
16 authority to adopt tax-sheltered plans under s. 401(a) of the  
17 Internal Revenue Code for state employees who are eligible for  
18 payment for accumulated leave. The department, upon adoption  
19 of the plans, shall contract for a private vendor or vendors  
20 to administer the plans. These plans shall be limited to state  
21 employees who are over age 55 and who are: eligible for  
22 accumulated leave and special compensation payments and  
23 separating from employment with 10 years of service in  
24 accordance with the Internal Revenue Code, or who are  
25 participating in the Deferred Retirement Option Program on or  
26 after July 1, 2001. The plans must provide benefits in a  
27 manner that minimizes the tax liability of the state and  
28 participants. The plans must be funded by employer  
29 contributions of payments for accumulated leave or special  
30 compensation payments, or both, as specified by the  
31 department. The plans must have received all necessary federal

1 and state approval as required by law, must not adversely  
2 impact the qualified status of the Florida Retirement System  
3 defined benefit or defined contribution plans or the pretax  
4 benefits program, and must comply with the provisions of s.  
5 112.65, Florida Statutes. Adoption of any plan is contingent  
6 on: the department receiving appropriate favorable rulings  
7 from the Internal Revenue Service; the department negotiating  
8 under the provisions of chapter 447, Florida Statutes, where  
9 applicable; and the Comptroller making appropriate changes to  
10 the state payroll system. The department's request for  
11 proposals by vendors for such plans may require that the  
12 vendors provide market-risk or volatility ratings from  
13 recognized rating agencies for each of their investment  
14 products. The department shall provide for a system of  
15 continuous quality assurance oversight to ensure that the  
16 program objectives are achieved and that the program is  
17 prudently managed.

18 (2) Within 30 days after termination of employment, an  
19 employee may elect to withdraw the moneys without penalty by  
20 the plan administrator. If any employee is adversely affected  
21 by payment of an excise tax or any Internal Revenue Service  
22 penalty by electing to withdraw funds within 30 days, the plan  
23 shall include a provision which will provide the employee with  
24 no less cash than if the employee had not participated in the  
25 plan.

26 (3) These contracts may be used by any other pay plans  
27 or personnel systems in the executive, legislative, or  
28 judicial branches of government upon approval of the  
29 appropriate administrative authority.

30 (4) Notwithstanding the terminal pay provisions of s.  
31 110.122, Florida Statutes, the department may contract for a



1 tax-sheltered plan for leave and special compensation pay for  
2 employees terminating over age 55 with 10 years of service and  
3 for employees participating in the Deferred Retirement Option  
4 Program on or after July 1, 2001, and who are over age 55. The  
5 frequency of payments into the plan shall be determined by the  
6 department or as provided in the General Appropriations Act.  
7 This plan or plans shall provide the greatest tax benefits to  
8 the employees and maximize the savings to the state.

9 (5) The department shall determine by rule the design  
10 of the plans and the eligibility of participants.

11 (6) Nothing in this section shall be construed to  
12 remove plan participants from the scope of s. 110.122(5),  
13 Florida Statutes.

14 Section 47. Career Service Advisory Group.--

15 (1) There is created the Career Service Advisory  
16 Group. The advisory group shall be composed of the following  
17 members, each of whom shall have knowledge of, or experience  
18 with, human resource management operations:

19 (a) Two members selected by the Governor.

20 (b) One member selected by the President of the  
21 Senate.

22 (c) One member selected by the Speaker of the House of  
23 Representatives.

24  
25 The selections provided for by this subsection shall be made  
26 on or before July 1, 2001. The group shall expire on January  
27 1, 2002.

28 (2) The advisory group members shall be human resource  
29 officials of Florida-domiciled corporations with a salaried  
30 workforce of at least 25,000 companywide.

31 (3) The group shall be considered advisory and shall

1 provide advice to the Department of Management Services and  
2 the Executive Office of the Governor on issues presented to it  
3 related to the implementation of this act. The Department of  
4 Management Services shall provide to the board copies of any  
5 rules proposed to implement this act.

6 Section 48. There is hereby appropriated for fiscal  
7 year 2001-2002 to Administered Funds the lump sum of \$7.4  
8 million from the General Revenue Fund and \$14 million from  
9 trust funds to fund the benefits to employees transferred from  
10 Career Service to Selected Exempt Service pursuant to the  
11 provisions of this act. This appropriation to Administered  
12 Funds shall be processed in the same manner as if it had been  
13 made in the General Appropriations Act.

14 Section 49. If any provision of this act or its  
15 application to any particular person or circumstance is held  
16 invalid, that provision or its application shall be deemed  
17 severable and shall not affect the validity of other  
18 provisions or applications of this act.

19 Section 50. Except as otherwise provided herein, this  
20 act shall take effect upon becoming a law.

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 remove from the title of the bill: the entire title

27 and insert in lieu thereof:

28 A bill to be entitled

29 An act relating to public employment; amending

30 s. 20.23, F.S.; eliminating provisions

31 requiring that the inspector general position

1 in the Department of Transportation be within  
 2 the Career Service System; repealing ss.  
 3 110.108 and 110.109, F.S., relating to  
 4 personnel pilot projects, productivity  
 5 improvement, and personnel audits of executive  
 6 branch agencies; amending s. 110.1091, F.S.;  
 7 revising provisions relating to programs to  
 8 assist state employees; repealing s. 110.1095,  
 9 F.S., relating to supervisory and management  
 10 training and continuing education for executive  
 11 branch agencies; amending s. 110.1099, F.S.;  
 12 revising provisions relating to education and  
 13 training opportunities for state employees;  
 14 including courses at public community colleges  
 15 and technical centers; providing for funding;  
 16 amending s. 110.1127, F.S., relating to  
 17 security background checks for certain state  
 18 employee positions; amending s. 110.113, F.S.;  
 19 requiring all state employees except those who  
 20 receive an exemption to participate in the  
 21 direct deposit program; amending s. 110.1245,  
 22 F.S.; providing for a savings sharing program  
 23 for employees whose proposals result in  
 24 savings; providing for bonus payments;  
 25 eliminating the meritorious service awards  
 26 program; requiring that such bonuses be paid  
 27 from funds authorized by the Legislature;  
 28 revising the amount of certain awards;  
 29 repealing s. 110.1246, F.S., relating to  
 30 lump-sum bonus payments; amending s. 110.129,  
 31 F.S., relating to technical assistance to

1 improve personnel administration for  
2 municipalities or other political subdivisions;  
3 amending s. 110.131, F.S.; requiring approval  
4 by the Executive Office of the Governor for an  
5 extension in hours of other-personal-services  
6 temporary employment; providing certain  
7 exceptions; amending s. 110.203, F.S.; revising  
8 definitions; including the outsourcing and  
9 privatization of an activity or function within  
10 the definition of "layoff"; defining  
11 "firefighter," "law enforcement or correctional  
12 officer," and "professional health care  
13 provider"; creating s. 110.2035, F.S.;  
14 requiring the Department of Management Services  
15 to develop a classification and compensation  
16 program for certain employees; providing  
17 requirements for the program; requiring that  
18 the department submit a proposed plan to the  
19 Governor and the Legislature; requiring the  
20 department to adopt rules establishing  
21 guidelines relating to specified pay additives  
22 and providing duties of agencies with respect  
23 thereto; amending s. 110.205, F.S.; revising  
24 the positions that are exempt from the Career  
25 Service System and providing additional exempt  
26 positions; providing for carrying leave  
27 forward; repealing ss. 110.207 and 110.209,  
28 F.S., which provide for establishment of  
29 uniform classification and pay plans; amending  
30 s. 110.211, F.S.; revising requirements  
31 relating to recruitment and responsibility

1           therefor and authorizing assistance by  
2           contracted vendors; removing a requirement for  
3           model recruitment rules; amending s. 110.213,  
4           F.S.; revising requirements relating to  
5           selection and responsibility therefor;  
6           requiring a probationary period for new  
7           employees; removing a requirement for model  
8           selection rules; amending s. 110.219, F.S.;  
9           providing requirements for leave benefits for  
10          Senior Management Service employees; providing  
11          for a year-end payout of annual leave to  
12          specified employees under specified  
13          circumstances; amending s. 110.224, F.S.;  
14          providing for a public employee performance  
15          evaluation system; providing requirements for  
16          the system; authorizing the department to adopt  
17          rules; amending s. 110.227, F.S.; prohibiting  
18          "bumping"; providing certain exceptions;  
19          providing requirements relating to  
20          implementation of layoffs and revising  
21          application of existing provisions prescribing  
22          layoff procedures; revising the definition of  
23          cause, for which a career service employee may  
24          be suspended or dismissed; revising certain  
25          agency head duties; providing procedures for  
26          the grievance process and specifying actions  
27          subject to such process; revising notice  
28          requirements; providing procedures for appeals  
29          to the Public Employees Relations Commission  
30          and specifying actions subject to such appeal;  
31          providing requirements with respect to certain

CONFERENCE COMMITTEE AMENDMENT

229-197AXA-05

Bill No. CS for SB 466, 2nd Eng.

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

1 review of suspensions, dismissals, demotions,  
2 or reductions in pay; amending s. 110.233,  
3 F.S.; conforming language; amending s. 110.235,  
4 F.S.; requiring state agencies to implement  
5 training programs; amending s. 110.401, F.S.,  
6 relating to a declaration of policy; amending  
7 s. 110.403, F.S.; providing requirements for  
8 the professional development program for the  
9 Senior Management Service; increasing the  
10 number of authorized positions within the  
11 Senior Management Service; amending s. 110.601,  
12 F.S., relating to a declaration of policy;  
13 amending s. 110.602, F.S.; eliminating a  
14 limitation on the number of authorized  
15 positions within the Selected Exempt Service;  
16 amending s. 110.605, F.S., relating to  
17 maintenance of records and reports; amending s.  
18 110.606, F.S.; correcting language; amending  
19 ss. 288.708 and 440.4416, F.S.; correcting  
20 references and conforming language; amending s.  
21 216.262, F.S.; providing that the Legislative  
22 Budgeting Commission may authorize a state  
23 agency to retain moneys associated with  
24 eliminated positions under certain  
25 circumstances and providing for use of such  
26 moneys; amending s. 447.201, F.S., relating to  
27 public policy with respect to public employees;  
28 amending s. 447.205, F.S.; conforming language;  
29 amending s. 447.207, F.S.; revising authority  
30 of the Public Employees Relations Commission to  
31 hear certain appeals; amending s. 447.208,

1 F.S.; conforming language; amending procedures  
2 for specified appeals; amending s. 447.507,  
3 F.S.; revising requirements for the probation  
4 served by certain public employees who have  
5 violated the strike prohibition; amending s.  
6 112.215, F.S.; authorizing certain pretax  
7 trustee-to-trustee transfer of deferred  
8 compensation accounts; transferring the Public  
9 Employees Relations Commission from the  
10 Department of Labor and Employment Security to  
11 the Department of Management Services;  
12 transferring powers, duties, functions, rules,  
13 records, personnel, property, and unexpended  
14 balances; providing for the commission's  
15 independence under specified circumstances;  
16 requiring the department to adopt rules and  
17 providing for repeal of certain rules; creating  
18 s. 110.1315, F.S.; authorizing the department  
19 to contract for an alternative retirement  
20 income security program for temporary and  
21 seasonal employees; providing requirements for  
22 selecting a vendor; amending s. 447.403, F.S.;  
23 revising requirements for resolving an impasse  
24 in collective bargaining negotiations;  
25 prohibiting the appointment of a mediator if  
26 the Governor is the employer; requiring notice  
27 to the Legislature when an impasse exists;  
28 providing for appointment of a joint select  
29 committee to recommend resolution; providing  
30 for legislative action; amending s. 216.163,  
31 F.S., relating to an impasse in collective

1 bargaining negotiations; removing a requirement  
2 that the Governor furnish certain documentation  
3 to legislative appropriations committees;  
4 authorizing the department to develop  
5 tax-sheltered plans for state employees  
6 eligible for payment for accumulated leave;  
7 providing requirements with respect thereto;  
8 authorizing the department to contract for a  
9 tax-sheltered plan for leave and special  
10 compensation pay for certain employees;  
11 creating a Career Service Advisory Group;  
12 providing for appointment and qualifications of  
13 members; providing its duties; providing for  
14 expiration; providing an appropriation;  
15 providing for severability; providing effective  
16 dates.

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