

hbd-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

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

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

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

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

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

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

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

hbd-05

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

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

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

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

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

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8 Statutes, are repealed.

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

1 to read:

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

hbd-05

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

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

1 respectively.

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

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

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

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

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

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

18 (3) STATE GROUP INSURANCE PROGRAM.--

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

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

hbd-05

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

hbd-05

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

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

1 basis under the Medicaid program;

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

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

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

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

14

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

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

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

hbd-05

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

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

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

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

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

hbd-05

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

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

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

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

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

31 109.1245 Savings sharing; bonus payments; other

hbd-05

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

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

1 awards.--

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

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

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

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

27 1. The number of proposals made.

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

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

hbd-05

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

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

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

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

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

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

15 (c) Eligibility criteria as follows:

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

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

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

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

hbd-05

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

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

1 improve processes.

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

hbd-05

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

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

1 training, and employee productivity.

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

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

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

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

31 (3) The department shall adopt rules providing that

hbd-05

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

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

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

10 (6)

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

27 (2) The department shall:

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

hbd-05

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

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

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

31 (3) The following goals shall be considered in

hbd-05

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

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

1 designing and implementing the program:

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

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

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

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

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

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

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

31 (a) Shift differentials.

hbd-05

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

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

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

11

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

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

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

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

1 Exempt Service by way of a collective bargaining agreement.

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

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

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

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

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

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

22 109.211 ~~110.211~~ Recruitment.--

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

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

hbd-05

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

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

1 ~~agency head the responsibility of the employing agency.~~
2 (3) Recruiting shall provide efficiency in advertising
3 and may be assisted by a contracted vendor responsible for
4 maintenance of the personnel data.~~The department shall~~
5 ~~provide for executive-level recruitment and a recruitment~~
6 ~~enhancement program designed to encourage individuals to seek~~
7 ~~employment with state government and to promote better public~~
8 ~~understanding of the state as an employer.~~
9 (4) ~~An application for a publicly announced vacancy~~
10 ~~must be made directly to the employing agency.~~
11 (4)(5) ~~All recruitment literature printed after July~~
12 ~~1, 1979, involving state position vacancies shall contain the~~
13 ~~phrase "An Equal Opportunity Employer/Affirmative Action~~
14 ~~Employer."~~
15 (6) ~~The department shall develop model recruitment~~
16 ~~rules which may be used by employing agencies. Such rules~~
17 ~~must be approved by the Administration Commission before their~~
18 ~~adoption by the department. Employing agencies electing to~~
19 ~~adopt recruitment rules that are inconsistent with the model~~
20 ~~rules must consult with and submit such rules to the~~
21 ~~department for review. Such rules must also be approved by~~
22 ~~the Administration Commission before their adoption by the~~
23 ~~employing agencies.~~
24 Section 45. Section 110.213, Florida Statutes, is
25 renumbered as section 109.213, Florida Statutes, and amended
26 to read:
27 109.213 ~~110.213~~ Selection.--
28 (1) ~~The department shall have the responsibility for~~
29 ~~determining guidelines for selection procedures to be utilized~~
30 ~~by the employing agencies.~~
31 (2) ~~Any selection procedure utilized in state~~

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

18 Section 48. Section 110.221, Florida Statutes, is
 19 renumbered as section 109.221, Florida Statutes.

20 Section 49. Section 110.224, Florida Statutes, is
 21 renumbered as section 109.224, Florida Statutes, and amended
 22 to read:

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

hbd-05

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

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

1 training needs, and to award lump-sum bonuses in accordance
2 with s. 109.1245(2) ~~and to assist in determining the order of~~
3 ~~layoff and reemployment.~~

4 (1) Upon original appointment, promotion, demotion, or
5 reassignment, a job description of the position assigned each
6 career service employee must be made available to the career
7 service employee ~~given a statement of the work expectations~~
8 ~~and performance standards applicable to the position.~~ The job
9 description may be made available in an electronic format.

10 ~~statement may be included in the position description or in a~~
11 ~~separate document. An employee will not be required to meet~~
12 ~~work expectations or performance standards that have not been~~
13 ~~furnished in writing to the employee.~~

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

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

27 Section 50. Section 110.227, Florida Statutes, is
28 renumbered as section 109.227, Florida Statutes, and
29 subsection (2) of said section is amended, and, effective July
30 1, 2001, subsections (1) and (3) and paragraph (a) of
31 subsection (5) of said section are amended, present

hbd-05

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

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

1 subsections (6) and (7) are amended and renumbered, and a new
 2 subsection (6) is added to said section, and, effective
 3 January 1, 2002, subsection (4) and paragraph (b) of
 4 subsection (5) of said section are amended, to read:

5 109.227 ~~110.227~~ Suspensions, dismissals, reductions in
 6 pay, demotions, layoffs, transfers, and grievances.--

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

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

hbd-05

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

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

1 shall not include any system whereby a career service employee
2 with greater seniority has the option of selecting a different
3 position not being eliminated, but either vacant or already
4 occupied by an employee of less seniority, and taking that
5 position, commonly referred to as "bumping."Such rules shall
6 be approved by the Administration Commission prior to their
7 adoption by the department. This subsection does not prohibit
8 collective bargaining units from seeking to incorporate
9 "bumping" in their collective bargaining agreements.

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

19 (b) Layoff procedures shall be developed to establish
20 the relative merit and fitness of employees and shall include
21 a formula for uniform application among potentially adversely
22 affected employees, or, with respect to law enforcement or
23 correctional officers or firefighters, among all employees in
24 the competitive area, taking into consideration the type of
25 appointment, the length of service, and the evaluations of the
26 employee's performance within the last 5 years of employment.

27 (4) Any permanent career service employee subject to
28 reduction in pay, transfer, layoff, or demotion from a class
29 in which he or she has permanent status in the Career Service
30 System shall be notified in writing by the agency prior to its
31 taking such action. The notice may be delivered to the

hbd-05

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

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

1 employee personally or may be sent by certified mail with
2 return receipt requested. As of January 1, 2002, such actions
3 shall be appealable to the circuit court, or the aggrieved
4 employee may request voluntary binding arbitration as provided
5 in s. 109.240 Public Employees Relations Commission, pursuant
6 to s. 447.208 and rules adopted by the commission. Appeals
7 based on the protections provided by the Whistle-blower's Act,
8 ss. 112.3187-112.31895, must be filed with the Commission on
9 Human Relations as provided for in that act.

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

31 (b) In extraordinary situations such as when the

hbd-05

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

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

1 retention of a permanent career service employee would result
2 in damage to state property, would be detrimental to the best
3 interest of the state, or would result in injury to the
4 employee, a fellow employee, or some other person, such
5 employee may be suspended or dismissed without 10 days' prior
6 notice, provided that written or oral notice of such action,
7 evidence of the reasons therefor, and an opportunity to rebut
8 the charges are furnished to the employee prior to such
9 dismissal or suspension. Such notice may be delivered to the
10 employee personally or may be sent by certified mail with
11 return receipt requested. Agency compliance with the foregoing
12 procedure requiring notice, evidence, and an opportunity for
13 rebuttal must be substantiated. Any any employee who is
14 suspended or dismissed on or after January 1, 2002, pursuant
15 to the provisions of this paragraph shall be entitled to a
16 hearing before the circuit court, or the aggrieved employee
17 may request voluntary binding arbitration as provided in s.
18 109.240 Public Employees Relations Commission or its
19 designated agent pursuant to s. 447.208, except that such
20 hearing shall be held no more than 20 days after the filing of
21 the notice of appeal by the employee. Appeals based on the
22 protections provided by the Whistle-blower's Act, ss.
23 112.3187-112.31895, must be filed with the Commission on Human
24 Relations as provided for in that act.

25 (6) For any alleged adverse agency action against an
26 employee, other than a law enforcement or correctional officer
27 or a firefighter, occurring on or after July 1, 2001, the
28 adversely affected employee bears the burden of proof to
29 establish by preponderance of the evidence that the agency
30 head abused his or her discretion in suspending, dismissing,
31 reducing the pay of, demoting, laying off, or transferring

hbd-05

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

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

1 that employee and that no reasonable cause existed for the
2 alleged adverse action taken by the agency, or that the
3 alleged adverse action was in violation of s. 109.233. For any
4 alleged adverse agency action against a law enforcement or
5 correctional officer or a firefighter occurring on or after
6 July 1, 2001, the agency must prove just cause for suspending,
7 dismissing, reducing the pay of, demoting, laying off, or
8 transferring that employee.

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

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

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

30 109.227 Suspensions, dismissals, reductions in pay,
31 demotions, layoffs, transfers, and grievances.--

hbd-05

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

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

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

27 Section 52. Section 110.233, Florida Statutes, is
 28 renumbered as section 109.233, Florida Statutes, and paragraph
 29 (a) of subsection (4) of said section is amended to read:
 30 109.233 ~~110.233~~ Political activities and unlawful acts
 31 prohibited.--

hbd-05

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

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

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

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

19 Section 53. Section 110.235, Florida Statutes, is
20 renumbered as section 109.235, Florida Statutes, and
21 subsection (1) of said section is amended to read:

22 109.235 ~~110.235~~ Training.--

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

30 Section 54. Section 109.237, Florida Statutes, is
31 created to read:

hbd-05

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

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

1 109.237 Office of Employee Relations.--
2 (1) There is created within the Department of
3 Management Services the Office of Employee Relations,
4 hereinafter referred to as the "office." The Governor shall
5 appoint an executive director of the office. The executive
6 director shall serve at the pleasure of and report to the
7 Governor. The executive director must be a member in good
8 standing of The Florida Bar, have a minimum of 5 years of
9 legal experience, and be knowledgeable regarding and have a
10 background in the laws regarding state employees, the Career
11 Service System, employee bargaining units, and collective
12 bargaining. The executive director shall serve on a full-time
13 basis, and shall personally, or through a representative of
14 the office, carry out the purposes and functions of the office
15 in accordance with state and federal law. The executive
16 director shall be responsible for the administrative functions
17 of the office. The executive director shall make all planning,
18 personnel, and budgeting decisions with regard to the office.
19 The executive director shall be solely responsible for
20 administering the voluntary binding arbitration program
21 provided for by s. 109.240. The executive director, or the
22 executive director's designee, shall be responsible for
23 establishing and implementing a training and education program
24 for all the office's employees with regard to their duties and
25 responsibilities, procedural requirements, and applicable law,
26 as appropriate for each employee's position.

27 (2) The executive director shall employ a general
28 counsel and an administrative assistant to meet immediate
29 staffing needs. The executive director, general counsel, and
30 administrative assistant shall be paid annual salaries to be
31 fixed by law. Such salaries shall be paid in equal monthly

hbd-05

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

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

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

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

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

26 (5) The office shall make such expenditures, including
27 expenditures for personal services and rent at the seat of
28 government and elsewhere, for law books, books of reference,
29 periodicals, furniture, equipment, and supplies, and for
30 printing and binding, as may be necessary in exercising its
31 authority and powers and carrying out its duties and

hbd-05

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

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

1 responsibilities. All such expenditures by the office shall be
2 allowed and paid upon the presentation of itemized vouchers
3 therefor approved by the executive director.

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

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

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

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

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

19 (11) Any hearing held by the office under this part
20 shall be conducted in accordance with the provisions of ss.
21 120.569 and 120.57 by an employee of the office, or a person
22 designated by the executive director, who is a member in good
23 standing of The Florida Bar.

24 Section 55. (1) Except as otherwise provided,
25 effective January 1, 2002, section 109.240, Florida Statutes,
26 is created to read:

27 109.240 Voluntary binding arbitration.--

28 (1) Upon receipt of notice of an adverse agency
29 action, any permanent career service employee may request
30 voluntary binding arbitration administered by the Office of
31 Employee Relations. As used in this section, "adverse agency

hbd-05

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

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

1 action" means the suspension, dismissal, reduction in pay,
2 demotion, layoff, or transfer of an employee. Any eligible
3 employee choosing to participate in voluntary binding
4 arbitration must file a written request for arbitration with
5 the office no later than 14 days after the receipt of notice
6 of the adverse agency action.

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

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

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

15 (c) The employee will faithfully abide by the
16 arbitration order unless otherwise determined by a court of
17 competent jurisdiction.

18 (3) Upon receipt of the arbitration request, the
19 office shall provide written notice to the agency against
20 which a request is made regarding the employee request for
21 binding arbitration. The agency must participate in the
22 requested binding arbitration. Binding arbitration shall not
23 be conducted pursuant to this section unless the employee
24 requests it.

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

hbd-05

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

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

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

4 (5)(a) The voluntary binding arbitration shall be
5 heard and determined by an employee panel that consists of
6 three randomly selected career service employees chosen by the
7 office in a manner to ensure a balanced representation of
8 employees from each pay classification. At least one of the
9 employees selected to serve on an employee panel must be a
10 member of the same pay classification as the employee
11 requesting binding arbitration. This paragraph does not apply
12 to law enforcement or correctional officers or firefighters.

13 (b) With regard to law enforcement or correctional
14 officers or firefighters, the voluntary binding arbitration
15 shall be heard and determined by an employee panel that
16 consists of three career service employees selected as
17 follows:

18 1. One panel member who is a member of the same pay
19 classification as the employee requesting the voluntary
20 binding arbitration, selected by that employee.

21 2. One panel member who is a member of the same pay
22 classification as the employee requesting the voluntary
23 binding arbitration, selected by the employer.

24 3. One panel member jointly selected by the other two
25 panel members. If the two panel members do not agree on the
26 jointly selected panel member, within 10 working days after
27 the appeal is submitted, the parties shall jointly request the
28 Federal Mediation and Conciliation Service to furnish a panel
29 of seven names from which each party shall have the option,
30 within 5 days of receipt, of striking three names in
31 alternating fashion. The seventh or remaining name shall serve

hbd-05

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

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

1 as the third panel member. The parties shall jointly notify
2 the panel member of his or her selection. Either party may
3 object to all names on the list, provided the objection is
4 made prior to the commencement of the striking process. If
5 this occurs, the objecting party may request the Federal
6 Mediation and Conciliation Service to furnish another list of
7 names. No more than two lists may be requested.

8 (c) The employee panel shall receive procedural
9 direction and legal advice from the arbitrator appointed by
10 the office.

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

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

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

hbd-05

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

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

1 (7)(a) The arbitrator selected by the office shall not
2 be an employee within the Career Service System, the Select
3 Management Service, or the Selected Exempt Service. Each
4 selected arbitrator must, at a minimum, meet the following
5 requirements:

6 1. Completion of a Florida Supreme Court certified
7 circuit or county arbitration program, or other arbitration
8 program approved by the office, in addition to a minimum of 1
9 day of training in the application of this chapter and chapter
10 447 and any rules adopted thereunder.

11 2. Compliance with the Code of Ethics for Arbitrators
12 in Employment Disputes published by the American Arbitration
13 Association and the American Bar Association in 1977, as
14 amended.

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

16 (b) The arbitrator shall have authority to commence
17 and adjourn the arbitration hearing. The arbitrator shall not
18 have authority to hold any person in contempt or to in any way
19 impose sanctions against any person. The arbitrator shall
20 provide assistance to the employee panel on questions of law.

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

27 (d) The arbitrator may set a preliminary conference
28 and require all parties to file a statement of position prior
29 to the conference. The statement of position may include
30 stipulations of the parties to uncontested facts and
31 applicable law, citations to all governing statutory or

hbd-05

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

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

1 regulatory laws that control the controversy, a list of issues
2 of fact and law that are in dispute, any proposals designed to
3 expedite the arbitration process, a list of documents
4 exchanged by the parties and a schedule for the delivery of
5 any additional relevant documents, identification of witnesses
6 expected to be called during the arbitration proceeding
7 accompanied by a short summary of their expected testimony,
8 and any other matters specified by the arbitrator.

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

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

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

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

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

29 3. Filling vacancies.

30 4. Compensating arbitrators, provided that an
31 arbitrator's fees and expenses shall not exceed \$500 per day

hbd-05

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

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

1 for case preparation, prehearing conferences, hearings, and
2 preparation of the arbitration order.

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

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

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

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

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

29 (b) The arbitrator has the power to issue subpoenas,
30 and to effect discovery on the written request of any party by
31 any means available to the courts and in the manner provided

hbd-05

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

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

1 in the Florida Rules of Civil Procedure, including the
2 imposition of sanctions, excluding contempt. Fees for
3 attendance of witnesses shall be the same as that provided in
4 civil actions in circuit courts of this state.

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

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

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

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

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

27 1. The exchange and filing of information among the
28 parties.

29 2. Discovery.

30 3. Offering evidence.

31 4. Calling and excluding witnesses.

hbd-05

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

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

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

hbd-05

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

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

1 the performance of their duties while acting within the scope
 2 of their appointed function in any arbitration conducted under
 3 this section.

4 (2) For purposes of rulemaking by the Office of
 5 Employee Relations, subsection (11) of s. 109.240, Florida
 6 Statutes, as created by this section, shall take effect July
 7 1, 2001.

8 Section 56. Section 110.401, Florida Statutes, is
 9 renumbered as section 109.401, Florida Statutes, and amended
 10 to read:

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

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

hbd-05

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

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

1 skills.

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

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

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

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

hbd-05

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

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

1 association, corporation, utility, or other organization,
2 whether public or private, doing business with or subject to
3 regulation by the agency.

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

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

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

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

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

31 Section 61. Section 110.406, Florida Statutes, is

hbd-05

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

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

1 renumbered as section 109.406, Florida Statutes, and paragraph
2 (a) of subsection (2) and subsection (3) of said section are
3 amended to read:

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

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

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

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

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

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

20 109.502 ~~110.502~~ Scope of act; status of volunteers.--

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

30 (3) Every department or agency utilizing the services
31 of volunteers is hereby authorized to provide such incidental

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

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

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

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

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

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

31 (5) Sections 109.601 through 109.606, Florida

hbd-05

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

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

1 Statutes, are designated as part V of chapter 109, Florida
2 Statutes, to be entitled "Selected Exempt Service System."

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

6 20.171 Department of Labor and Employment
7 Security.--There is created a Department of Labor and
8 Employment Security. The department shall operate its programs
9 in a decentralized fashion.

10 (2)

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

20 (3)

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

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

hbd-05

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

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

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

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

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

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

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

hbd-05

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

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

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

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

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

10 f. The expense and operating costs of the various
11 activities of the department.

12 g. The receipts accruing to the department and the
13 distribution thereof.

14 h. The assets, investments, and liabilities of the
15 department.

16 i. The cash requirements of the department for a
17 36-month period.

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

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

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

24 20.18 Department of Community Affairs.--There is
25 created a Department of Community Affairs.

26 (3) Unless otherwise provided by law, the Secretary of
27 Community Affairs shall appoint the directors or executive
28 directors of any commission or council assigned to the
29 department, who shall serve at his or her pleasure as provided
30 for division directors in s. 109.205 ~~110.205~~. The appointment
31 or termination by the secretary will be done with the advice

hbd-05

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

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

1 and consent of the commission or council; and the director or
2 executive director may employ, subject to departmental rules
3 and procedures, such personnel as may be authorized and
4 necessary.

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

7 20.21 Department of Revenue.--There is created a
8 Department of Revenue.

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

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

21 20.23 Department of Transportation.--There is created
22 a Department of Transportation which shall be a decentralized
23 agency.

24 (1)

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

hbd-05

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

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

1 Governor shall approve said salary.

2 (2)

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

16 (3)

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

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

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

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

27 d. Performing other activities of a statewide nature.

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

hbd-05

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

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

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

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

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

27 (f)1. Within the central office there is created an
28 Office of Management and Budget. The head of the Office of
29 Management and Budget is responsible to the Assistant
30 Secretary for Finance and Administration and is exempt from
31 part II of chapter 109 ~~110~~.

hbd-05

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

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

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

3 a. Preparation of the work program;

4 b. Preparation of the departmental budget; and

5 c. Coordination of related policies and procedures.

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

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

hbd-05

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

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

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

29 2. In addition to the authority and responsibilities
30 herein provided, the inspector general is required to report
31 to the:

hbd-05

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

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

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

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

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

27 2. The comptroller is the chief financial officer of
28 the department and must be a proven, effective administrator
29 who by a combination of education and experience clearly
30 possesses a broad knowledge of the administrative, financial,
31 and technical aspects of a complex cost-accounting system.

hbd-05

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

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

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

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

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

hbd-05

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

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

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

hbd-05

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

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

1 construction, right-of-way, maintenance, and public
 2 transportation. The heads of these offices shall be exempt
 3 from part II of chapter 109 ~~110~~.

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

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

13 20.255 Department of Environmental Protection.--There
 14 is created a Department of Environmental Protection.

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

- 23 1. Office of Chief of Staff,
- 24 2. Office of General Counsel,
- 25 3. Office of Inspector General,
- 26 4. Office of External Affairs,
- 27 5. Office of Legislative and Government Affairs, and
- 28 6. Office of Greenways and Trails.

29 (b) There shall be six administrative districts
 30 involved in regulatory matters of waste management, water
 31 resource management, wetlands, and air resources, which shall

hbd-05

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

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

1 be headed by managers, each of whom is to be appointed by and
2 serve at the pleasure of the secretary. Divisions of the
3 department may have one assistant or two deputy division
4 directors, as required to facilitate effective operation.

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

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

14 20.315 Department of Corrections.--There is created a
15 Department of Corrections.

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

29 (b) The secretary shall appoint a general counsel and
30 an inspector general, who are exempt from part II of chapter
31 109 ~~110~~ and are included in the Senior Management Service.

hbd-05

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

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

1 (6) FLORIDA CORRECTIONS COMMISSION.--

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

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

21 24.105 Powers and duties of department.--The
22 department shall:

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

25 (d) The department shall establish and maintain a
26 personnel program for its employees, including a personnel
27 classification and pay plan which may provide any or all of
28 the benefits provided in the Senior Management Service or
29 Selected Exempt Service. Each officer or employee of the
30 department shall be a member of the Florida Retirement System.
31 The retirement class of each officer or employee shall be the

hbd-05

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

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

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

21 Section 79. Paragraph (d) of subsection (4) of section
22 24.122, Florida Statutes, is amended to read:

23 24.122 Exemption from taxation; state preemption;
24 inapplicability of other laws.--

25 (4) Any state or local law providing any penalty,
26 disability, restriction, or prohibition for the possession,
27 manufacture, transportation, distribution, advertising, or
28 sale of any lottery ticket, including chapter 849, shall not
29 apply to the tickets of the state lottery operated pursuant to
30 this act; nor shall any such law apply to the possession of a
31 ticket issued by any other government-operated lottery. In

hbd-05

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

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

1 addition, activities of the department under this act are
2 exempt from the provisions of:

3 (d) Section 109.131 ~~110.131~~, relating to other
4 personal services.

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

7 68.087 Exemptions to civil actions.--

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

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

19 104.31 Political activities of state, county, and
20 municipal officers and employees.--

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

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

30 106.082 Commissioner of Agriculture candidates;
31 campaign contribution limits.--

hbd-05

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

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

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

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

20 106.24 Florida Elections Commission; membership;
 21 powers; duties.--

22 (4) The commission shall appoint an executive
 23 director, who shall serve under the direction, supervision,
 24 and control of the commission. The executive director, with
 25 the consent of the commission, shall employ such staff as are
 26 necessary to adequately perform the functions of the
 27 commission, within budgetary limitations. All employees,
 28 except the executive director and attorneys, are subject to
 29 part II of chapter 109 ~~110~~. The executive director shall
 30 serve at the pleasure of the commission and be subject to part
 31 III of chapter 109 ~~110~~, except that the commission shall have

hbd-05

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

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

1 complete authority for setting the executive director's
2 salary. Attorneys employed by the commission shall be subject
3 to part V of chapter 109 ~~110~~.

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

6 112.044 Public employers, employment agencies, labor
7 organizations; discrimination based on age prohibited;
8 exceptions; remedy.--

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

21 Section 85. Section 112.0805, Florida Statutes, is
22 amended to read:

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

30 Section 86. Paragraph (a) of subsection (9) of section
31 112.313, Florida Statutes, is amended to read:

hbd-05

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

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

1 112.313 Standards of conduct for public officers,
2 employees of agencies, and local government attorneys.--

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

5 (a)1. It is the intent of the Legislature to implement
6 by statute the provisions of s. 8(e), Art. II of the State
7 Constitution relating to legislators, statewide elected
8 officers, appointed state officers, and designated public
9 employees.

10 2. As used in this paragraph:

11 a. "Employee" means:

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

19 (II) The Auditor General, the Sergeant at Arms and
20 Secretary of the Senate, and the Sergeant at Arms and Clerk of
21 the House of Representatives.

22 (III) The executive director of the Legislative
23 Committee on Intergovernmental Relations and the executive
24 director and deputy executive director of the Commission on
25 Ethics.

26 (IV) An executive director, staff director, or deputy
27 staff director of each joint committee, standing committee, or
28 select committee of the Legislature; an executive director,
29 staff director, executive assistant, analyst, or attorney of
30 the Office of the President of the Senate, the Office of the
31 Speaker of the House of Representatives, the Senate Majority

hbd-05

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

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

1 Party Office, Senate Minority Party Office, House Majority
2 Party Office, or House Minority Party Office; or any person,
3 hired on a contractual basis, having the power normally
4 conferred upon such persons, by whatever title.

5 (V) The Chancellor and Vice Chancellors of the State
6 University System; the general counsel to the Board of
7 Regents; and the president, vice presidents, and deans of each
8 state university.

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

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

18 c. "State agency" means an entity of the legislative,
19 executive, or judicial branch of state government over which
20 the Legislature exercises plenary budgetary and statutory
21 control.

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

hbd-05

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

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

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

6 5. Any person violating this paragraph shall be
7 subject to the penalties provided in s. 112.317 and a civil
8 penalty of an amount equal to the compensation which the
9 person receives for the prohibited conduct.

10 6. This paragraph is not applicable to:

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

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

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

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

22 e. Any appointed state officer whose term of office
23 began before January 1, 1995, unless reappointed to that
24 office on or after January 1, 1995.

25 Section 87. Paragraph (a) of subsection (5) of section
26 112.3189, Florida Statutes, is amended to read:

27 112.3189 Investigative procedures upon receipt of
28 whistle-blower information from certain state employees.--

29 (5)(a) If the Chief Inspector General or agency
30 inspector general under subsection (3) determines that the
31 information disclosed is the type of information described in

hbd-05

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

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

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

- 21 1. The gravity of the disclosed information compared
22 to the time and expense of an investigation.
- 23 2. The potential for an investigation to yield
24 recommendations that will make state government more efficient
25 and effective.
- 26 3. The benefit to state government to have a final
27 report on the disclosed information.
- 28 4. Whether the alleged whistle-blower information
29 primarily concerns personnel practices that may be
30 investigated under chapter 109 ~~110~~.
- 31 5. Whether another agency may be conducting an

hbd-05

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

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

1 investigation and whether any investigation under this section
2 could be duplicative.

3 6. The time that has elapsed between the alleged event
4 and the disclosure of the information.

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

7 112.363 Retiree health insurance subsidy.--

8 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
9 SUBSIDY.--A person who is retired under a state-administered
10 retirement system, or a beneficiary who is a spouse or
11 financial dependent entitled to receive benefits under a
12 state-administered retirement system, is eligible for health
13 insurance subsidy payments provided under this section; except
14 that pension recipients under ss. 121.40, 238.07(16)(a), and
15 250.22, recipients of health insurance coverage under s.
16 109.1232 ~~110.1232~~, or any other special pension or relief act
17 shall not be eligible for such payments. Payment of the
18 retiree health insurance subsidy shall be made only after
19 coverage for health insurance for the retiree or beneficiary
20 has been certified in writing to the Department of Management
21 Services. Participation in a former employer's group health
22 insurance program is not a requirement for eligibility under
23 this section. However, participants in the Senior Management
24 Service Optional Annuity Program as provided in s. 121.055(6)
25 and the State University System Optional Retirement Program as
26 provided in s. 121.35 shall not receive the retiree health
27 insurance subsidy provided in this section. The employer of
28 such participant shall pay the contributions required in
29 subsection (8) to the annuity program provided in s.
30 121.055(6)(d) or s. 121.35(4)(a), as applicable.

31 Section 89. Effective July 1, 2001, paragraph (a) of

hbd-05

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

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

1 subsection (2) of section 112.363, Florida Statutes, as
2 amended by chapter 2000-169, Laws of Florida, is amended to
3 read:

4 112.363 Retiree health insurance subsidy.--

5 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE
6 SUBSIDY.--

7 (a) A person who is retired under a state-administered
8 retirement system, or a beneficiary who is a spouse or
9 financial dependent entitled to receive benefits under a
10 state-administered retirement system, is eligible for health
11 insurance subsidy payments provided under this section; except
12 that pension recipients under ss. 121.40, 238.07(16)(a), and
13 250.22, recipients of health insurance coverage under s.
14 109.1232 ~~110.1232~~, or any other special pension or relief act
15 shall not be eligible for such payments.

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

18 121.021 Definitions.--The following words and phrases
19 as used in this chapter have the respective meanings set forth
20 unless a different meaning is plainly required by the context:

21 (38) "Continuous service" means creditable service as
22 a member, beginning with the first day of employment with an
23 employer covered under a state-administered retirement system
24 consolidated herein and continuing for as long as the member
25 remains in an employer-employee relationship with an employer
26 covered under this chapter. An absence of 1 calendar month or
27 more from an employer's payroll shall be considered a break in
28 continuous service, except for periods of absence during which
29 an employer-employee relationship continues to exist and such
30 period of absence is creditable under this chapter or under
31 one of the existing systems consolidated herein. However, a

hbd-05

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

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

1 law enforcement officer as defined in s. 121.0515(2)(a) who
2 was a member of a state-administered retirement system under
3 chapter 122 or chapter 321 and who resigned and was
4 subsequently reemployed in a law enforcement position within
5 12 calendar months of such resignation by an employer under
6 such state-administered retirement system shall be deemed to
7 have not experienced a break in service. Further, with respect
8 to a state-employed law enforcement officer who meets the
9 criteria specified in s. 121.0515(2)(a), if the absence from
10 the employer's payroll is the result of a "layoff" as defined
11 in s. 109.203(24)~~110.203(24)~~ or a resignation to run for an
12 elected office that meets the criteria specified in s.
13 121.0515(2)(a), no break in continuous service shall be deemed
14 to have occurred if the member is reemployed as a state law
15 enforcement officer or is elected to an office which meets the
16 criteria specified in s. 121.0515(2)(a) within 12 calendar
17 months after the date of the layoff or resignation,
18 notwithstanding the fact that such period of layoff or
19 resignation is not creditable service under this chapter. A
20 withdrawal of contributions will constitute a break in
21 service. Continuous service also includes past service
22 purchased under this chapter, provided such service is
23 continuous within this definition and the rules established by
24 the administrator. The administrator may establish
25 administrative rules and procedures for applying this
26 definition to creditable service authorized under this
27 chapter. Any correctional officer, as defined in s. 943.10,
28 whose participation in the state-administered retirement
29 system is terminated due to the transfer of a county detention
30 facility through a contractual agreement with a private entity
31 pursuant to s. 951.062, shall be deemed an employee with

hbd-05

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

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

1 continuous service in the Special Risk Class, provided return
2 to employment with the former employer takes place within 3
3 years due to contract termination or the officer is employed
4 by a covered employer in a special risk position within 1 year
5 after his or her initial termination of employment by such
6 transfer of its detention facilities to the private entity.

7 Section 91. Paragraph (b) of subsection (3) of section
8 121.0515, Florida Statutes, is amended to read:

9 121.0515 Special risk membership.--

10 (3) PROCEDURE FOR DESIGNATING.--

11 (b)1. Applying the criteria set forth in this section,
12 the Department of Management Services shall specify which
13 current and newly created classes of positions under the
14 uniform classification plan established pursuant to chapter
15 109 ~~110~~ entitle the incumbents of positions in those classes
16 to membership in the Special Risk Class. Only employees
17 employed in the classes so specified shall be special risk
18 members.

19 2. When a class is not specified by the department as
20 provided in subparagraph 1., the employing agency may petition
21 the State Retirement Commission for approval in accordance
22 with s. 121.23.

23 Section 92. Paragraph (a) of subsection (1) of section
24 121.055, Florida Statutes, is amended to read:

25 121.055 Senior Management Service Class.--There is
26 hereby established a separate class of membership within the
27 Florida Retirement System to be known as the "Senior
28 Management Service Class," which shall become effective
29 February 1, 1987.

30 (1)(a) Participation in the Senior Management Service
31 Class shall be limited to and compulsory for any member of the

hbd-05

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

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

1 Florida Retirement System who holds a position in the Senior
2 Management Service of the State of Florida, established by
3 part III of chapter 109 ~~110~~, unless such member elects, within
4 the time specified herein, to participate in the Senior
5 Management Service Optional Annuity Program as established in
6 subsection (6).

7 Section 93. Paragraph (a) of subsection (2) of section
8 121.35, Florida Statutes, is amended to read:

9 121.35 Optional retirement program for the State
10 University System.--

11 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL
12 PROGRAM.--

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

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

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

25 3. The Chancellor and the university presidents.

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

28 215.94 Designation, duties, and responsibilities of
29 functional owners.--

30 (5) The Department of Management Services shall be the
31 functional owner of the Cooperative Personnel Employment

hbd-05

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

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

1 Subsystem. The department shall design, implement, and
2 operate the subsystem in accordance with the provisions of ss.
3 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall
4 include, but shall not be limited to, functions for:

5 (a) Maintenance of employee and position data,
6 including funding sources and percentages and salary lapse.
7 The employee data shall include, but not be limited to,
8 information to meet the payroll system requirements of the
9 Department of Banking and Finance and to meet the employee
10 benefit system requirements of the Department of Management
11 Services.

12 (b) Recruitment and examination.

13 (c) Time reporting.

14 (d) Collective bargaining.

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

17 216.011 Definitions.--

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

21 Section 96. Paragraph (a) of subsection (2) of section
22 216.251, Florida Statutes, is amended to read:

23 216.251 Salary appropriations; limitations.--

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

27 1. Within the classification and pay plans provided
28 for in chapter 109 ~~110~~.

29 2. Within the classification and pay plans established
30 by the Board of Trustees for the Florida School for the Deaf
31 and the Blind of the Department of Education and approved by

hbd-05

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

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

1 the State Board of Education for academic and academic
2 administrative personnel.

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

6 4. Within the classification and pay plan approved by
7 the President of the Senate and the Speaker of the House of
8 Representatives, as the case may be, for employees of the
9 Legislature.

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

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

15 Section 97. Section 231.381, Florida Statutes, is
16 amended to read:

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

26 Educational personnel in Department of Children and Family
27 Services residential care facilities who are employed by a
28 district school board under the provisions of s. 402.22(1)(d)
29 may request, and the district school board shall accept, a
30 lump-sum transfer of accumulated annual leave for each person
31 employed by the district school board in a position in the

hbd-05

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

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

1 district eligible to accrue vacation leave under policies of
2 the district school board.

3 Section 98. Paragraph (c) of subsection (1) of section
4 235.217, Florida Statutes, is amended to read:

5 235.217 SMART (Soundly Made, Accountable, Reasonable,
6 and Thrifty) Schools Clearinghouse.--

7 (1)

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

14 Section 99. Paragraph (f) of subsection (3) of section
15 240.209, Florida Statutes, is amended to read:

16 240.209 Board of Regents; powers and duties.--

17 (3) The board shall:

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

hbd-05

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

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

1 University System personnel programs as shall be required of
 2 the Department of Management Services for other state
 3 employees. The Department of Management Services shall retain
 4 authority over State University System employees for programs
 5 established in ss. 109.116, 109.123, 109.1232, 109.1234, and
 6 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~
 7 and in chapters 121, 122, and 238. The board shall adopt rules
 8 to provide for a coordinated, efficient systemwide program and
 9 shall delegate to the universities authority for implementing
 10 the program consistent with these coordinating rules so
 11 adopted and applicable collective bargaining agreements. The
 12 salary rate controls for positions in budgets under the Board
 13 of Regents shall separately delineate the general faculty and
 14 all other categories.

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

17 240.2111 Employee recognition program.--

18 (1)(a) Notwithstanding the provisions of s. 109.1245
 19 ~~110.1245~~, the Board of Regents and each university shall
 20 promulgate rules for an employee recognition program which
 21 provides for the following components:

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

29 2. A satisfactory service component to recognize
 30 employees who have achieved increments of 5 continuous years
 31 of satisfactory service to the Board of Regents, university,

hbd-05

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

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

1 or state in appreciation and recognition of such service. No
 2 cash award granted under the satisfactory service component
 3 shall exceed \$50, excluding applicable taxes.

4 Section 101. Section 240.507, Florida Statutes, is
 5 amended to read:

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

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

17 241.002 Duties of the Department of Education.--The
 18 duties of the Department of Education concerning distance
 19 learning include, but are not limited to, the duty to:

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

24
 25 Nothing in ss. 241.001-241.004 shall be construed to abrogate,
 26 supersede, alter, or amend the powers and duties of any state
 27 agency, district school board, community college board of
 28 trustees, the State Board of Community Colleges, or the Board
 29 of Regents.

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

hbd-05

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

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

1 242.331 Florida School for the Deaf and the Blind;
2 board of trustees.--

3 (6) The board of trustees shall:

4 (b) Administer and maintain personnel programs for all
5 employees of the board of trustees and the Florida School for
6 the Deaf and the Blind who shall be state employees, including
7 the personnel classification and pay plan established in
8 accordance with ss. 109.205(2)(d)~~110.205(2)(d)~~and
9 216.251(2)(a)2. for academic and academic administrative
10 personnel, the provisions of chapter 109 ~~110~~, and the
11 provisions of law that grant authority to the Department of
12 Management Services over such programs for state employees.

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

15 260.0125 Limitation on liability of private landowners
16 whose property is designated as part of the statewide system
17 of greenways and trails.--

18 (2) Any private landowner who consents to designation
19 of his or her land as part of the statewide system of
20 greenways and trails pursuant to s. 260.016(2)(d) without
21 compensation shall be considered a volunteer, as defined in s.
22 109.501 ~~110.501~~, and shall be covered by state liability
23 protection pursuant to s. 768.28, including s. 768.28(9).

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

26 281.02 Powers and duties of the Department of
27 Management Services, Florida Capitol Police.--The Department
28 of Management Services, Florida Capitol Police, has the
29 following powers and duties:

30 (4) To employ:

31 (a) Agents who hold certification as police officers

hbd-05

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

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

1 in accordance with the minimum standards and qualifications as
2 set forth in s. 943.13 and the provisions of chapter 109 ~~110~~,
3 who shall have the authority to bear arms, make arrests, and
4 apply for arrest warrants; and

5 Section 106. Section 287.175, Florida Statutes, is
6 amended to read:

7 287.175 Penalties.--A violation of this part or a rule
8 adopted hereunder, pursuant to applicable constitutional and
9 statutory procedures, constitutes misuse of public position as
10 defined in s. 112.313(6), and is punishable as provided in s.
11 112.317. The Comptroller shall report incidents of suspected
12 misuse to the Commission on Ethics, and the commission shall
13 investigate possible violations of this part or rules adopted
14 hereunder when reported by the Comptroller, notwithstanding
15 the provisions of s. 112.324. Any violation of this part or a
16 rule adopted hereunder shall be presumed to have been
17 committed with wrongful intent, but such presumption is
18 rebuttable. Nothing in this section is intended to deny
19 rights provided to career service employees by s. 109.227
20 ~~110.227~~.

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

23 288.708 Executive director; employees.--

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

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

30 295.07 Preference in appointment and retention.--

31 (4) The following positions are exempt from this

hbd-05

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

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

1 section:

2 (a) Those positions that are exempt from the state
3 Career Service System under s. 109.205(2)~~110.205(2)~~; however,
4 all positions under the University Support Personnel System of
5 the State University System as well as all Career Service
6 System positions under the Florida Community College System
7 and the School for the Deaf and the Blind are included.

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

11 296.04 Administrator; duties and qualifications;
12 responsibilities.--

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

24 (4)

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

29 Section 110. Subsection (1) and paragraph (b) of
30 subsection (4) of section 296.34, Florida Statutes, are
31 amended to read:

hbd-05

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

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

1 296.34 Administrator; qualifications, duties, and
2 responsibilities.--

3 (1) The director shall appoint an administrator of the
4 home who shall be the chief executive of the home. The
5 position shall be assigned to the Selected Exempt Service
6 under part V of chapter 109 ~~110~~. The director shall give
7 preference in appointment as provided in ss. 295.07 and
8 295.085 to applicants for the position of administrator.

9 (4)

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

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

16 311.07 Florida seaport transportation and economic
17 development funding.--

18 (5) Any port which receives funding under the program
19 shall institute procedures to ensure that jobs created as a
20 result of the state funding shall be subject to equal
21 opportunity hiring practices in the manner provided in s.
22 109.112 ~~110.112~~.

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

25 339.175 Metropolitan planning organization.--It is the
26 intent of the Legislature to encourage and promote the safe
27 and efficient management, operation, and development of
28 surface transportation systems that will serve the mobility
29 needs of people and freight within and through urbanized areas
30 of this state while minimizing transportation-related fuel
31 consumption and air pollution. To accomplish these objectives,

hbd-05

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

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

1 metropolitan planning organizations, referred to in this
2 section as M.P.O.'s, shall develop, in cooperation with the
3 state and public transit operators, transportation plans and
4 programs for metropolitan areas. The plans and programs for
5 each metropolitan area must provide for the development and
6 integrated management and operation of transportation systems
7 and facilities, including pedestrian walkways and bicycle
8 transportation facilities that will function as an intermodal
9 transportation system for the metropolitan area, based upon
10 the prevailing principles provided in s. 334.046(1). The
11 process for developing such plans and programs shall provide
12 for consideration of all modes of transportation and shall be
13 continuing, cooperative, and comprehensive, to the degree
14 appropriate, based on the complexity of the transportation
15 problems to be addressed.

16 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
17 COUNCIL.--

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

- 20 1. Enter into contracts with individuals, private
21 corporations, and public agencies.
- 22 2. Acquire, own, operate, maintain, sell, or lease
23 personal property essential for the conduct of business.
- 24 3. Accept funds, grants, assistance, gifts, or
25 bequests from private, local, state, or federal sources.
- 26 4. Establish bylaws and adopt rules pursuant to ss.
27 120.536(1) and 120.54 to implement provisions of law
28 conferring powers or duties upon it.
- 29 5. Assist M.P.O.'s in carrying out the urbanized area
30 transportation planning process by serving as the principal
31 forum for collective policy discussion pursuant to law.

hbd-05

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

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

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

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

15 8. Adopt an agency strategic plan that provides the
16 priority directions the agency will take to carry out its
17 mission within the context of the state comprehensive plan and
18 any other statutory mandates and directions given to the
19 agency.

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

22 343.74 Powers and duties.--

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

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

29 381.85 Biomedical and social research.--

30 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL
31 RESEARCH.--

hbd-05

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

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

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

5 Section 115. Section 393.0657, Florida Statutes, is
6 amended to read:

7 393.0657 Persons not required to be refingerprinted or
8 rescreened.--Any provision of law to the contrary
9 notwithstanding, human resource personnel who have been
10 fingerprinted or screened pursuant to chapters 393, 394, 397,
11 402, and 409, and teachers who have been fingerprinted
12 pursuant to chapter 231, who have not been unemployed for more
13 than 90 days thereafter, and who under the penalty of perjury
14 attest to the completion of such fingerprinting or screening
15 and to compliance with the provisions of this section and the
16 standards for good moral character as contained in such
17 provisions as ss. 109.1127(3)~~110.1127(3)~~, 393.0655(1),
18 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be
19 required to be refingerprinted or rescreened in order to
20 comply with any direct service provider screening or
21 fingerprinting requirements.

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

24 400.19 Right of entry and inspection.--

25 (3) The agency shall every 15 months conduct at least
26 one unannounced inspection to determine compliance by the
27 licensee with statutes, and with rules promulgated under the
28 provisions of those statutes, governing minimum standards of
29 construction, quality and adequacy of care, and rights of
30 residents. The agency shall verify through subsequent
31 inspection that any deficiency identified during the annual

hbd-05

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

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

1 inspection is corrected. However, the agency may verify the
2 correction of a class III deficiency unrelated to resident
3 rights or resident care without reinspecting the facility if
4 adequate written documentation has been received from the
5 facility, which provides assurance that the deficiency has
6 been corrected. The giving or causing to be given of advance
7 notice of such unannounced inspections by an employee of the
8 agency to any unauthorized person shall constitute cause for
9 suspension of not fewer than 5 working days according to the
10 provisions of chapter 109 ~~110~~.

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

13 400.953 Background screening of home medical equipment
14 provider personnel.--The agency shall require employment
15 screening as provided in chapter 435, using the level 1
16 standards for screening set forth in that chapter, for home
17 medical equipment provider personnel.

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

hbd-05

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

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

1 requirements of this section shall be provided, upon request,
2 to the person screened by the home medical equipment provider.

3 Section 118. Section 402.3057, Florida Statutes, is
4 amended to read:

5 402.3057 Persons not required to be refingerprinted or
6 rescreened.--Any provision of law to the contrary
7 notwithstanding, human resource personnel who have been
8 fingerprinted or screened pursuant to chapters 393, 394, 397,
9 402, and 409, and teachers and noninstructional personnel who
10 have been fingerprinted pursuant to chapter 231, who have not
11 been unemployed for more than 90 days thereafter, and who
12 under the penalty of perjury attest to the completion of such
13 fingerprinting or screening and to compliance with the
14 provisions of this section and the standards for good moral
15 character as contained in such provisions as ss. 109.1127(3)
16 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
17 409.175(4), shall not be required to be refingerprinted or
18 rescreened in order to comply with any caretaker screening or
19 fingerprinting requirements.

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

22 402.55 Management fellows program.--

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

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

28 402.731 Department of Children and Family Services
29 certification programs for employees and service providers;
30 employment provisions for transition to community-based
31 care.--

hbd-05

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

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

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

13 Section 121. Section 409.1757, Florida Statutes, is
14 amended to read:

15 409.1757 Persons not required to be refingerprinted or
16 rescreened.--Any provision of law to the contrary
17 notwithstanding, human resource personnel who have been
18 fingerprinted or screened pursuant to chapters 393, 394, 397,
19 402, and this chapter, and teachers who have been
20 fingerprinted pursuant to chapter 231, who have not been
21 unemployed for more than 90 days thereafter, and who under the
22 penalty of perjury attest to the completion of such
23 fingerprinting or screening and to compliance with the
24 provisions of this section and the standards for good moral
25 character as contained in such provisions as ss. 109.1127(3)
26 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
27 409.175(4), shall not be required to be refingerprinted or
28 rescreened in order to comply with any caretaker screening or
29 fingerprinting requirements.

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

hbd-05

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

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

1 440.102 Drug-free workplace program requirements.--The
2 following provisions apply to a drug-free workplace program
3 implemented pursuant to law or to rules adopted by the Agency
4 for Health Care Administration:

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

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

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

19 440.4416 Workers' Compensation Oversight Board.--

20 (3) EXECUTIVE DIRECTOR; EXPENSES.--

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

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

30 443.171 Division and commission; powers and duties;
31 rules; advisory council; records and reports; proceedings;

hbd-05

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

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

1 state-federal cooperation.--

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

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

16 447.207 Commission; powers and duties.--

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

20 (a) Section 109.124 ~~110.124~~, relating to termination
21 or transfer of State Career Service System employees aged 65
22 or older.

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

25 456.048 Financial responsibility requirements for
26 certain health care practitioners.--

27 (2) The board or department may grant exemptions upon
28 application by practitioners meeting any of the following
29 criteria:

30 (a) Any person licensed under chapter 457, chapter
31 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who

hbd-05

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

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

1 practices exclusively as an officer, employee, or agent of the
2 Federal Government or of the state or its agencies or its
3 subdivisions. For the purposes of this subsection, an agent
4 of the state, its agencies, or its subdivisions is a person
5 who is eligible for coverage under any self-insurance or
6 insurance program authorized by the provisions of s.
7 768.28(15) or who is a volunteer under s. 109.501(1)
8 ~~110.501(1)~~.

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

11 471.038 Florida Engineers Management Corporation.--

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

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

27 (b) Provide administrative, investigative, and
28 prosecutorial services to the board in accordance with the
29 provisions of chapter 455, this chapter, and the contract
30 required by this section.

31 (c) Receive, hold, and administer property and make

hbd-05

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

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

1 only prudent expenditures directly related to the
2 responsibilities of the board, and in accordance with the
3 contract required by this section.

4 (d) Be approved by the board and the department to
5 operate for the benefit of the board and in the best interest
6 of the state.

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

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

25 (g) Select its officers in accordance with its bylaws.
26 The members of the board of directors may be removed by the
27 board, with the concurrence of the department, for the same
28 reasons that a board member may be removed.

29 (h) Use a portion of the interest derived from the
30 management corporation account to offset the costs associated
31 with the use of credit cards for payment of fees by applicants

hbd-05

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

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

1 or licensees.

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

5 1. Approval of the articles of incorporation and
6 bylaws of the management corporation by the department and the
7 board.

8 2. Submission by the management corporation of an
9 annual budget that complies with board rules for approval by
10 the board and the department.

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

19 4. Employment by the department of a contract
20 administrator to actively supervise the administrative,
21 investigative, and prosecutorial activities of the management
22 corporation to ensure compliance with the contract and the
23 provisions of chapter 455 and this chapter and to act as a
24 liaison for the department, the board, and the management
25 corporation to ensure the effective operation of the
26 management corporation.

27 5. Funding of the management corporation through
28 appropriations allocated to the regulation of professional
29 engineers from the Professional Regulation Trust Fund.

30 6. The reversion to the board, or the state if the
31 board ceases to exist, of moneys, records, data, and property

hbd-05

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

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

1 held in trust by the management corporation for the benefit of
2 the board, if the management corporation is no longer approved
3 to operate for the board or the board ceases to exist. All
4 records and data in a computerized database shall be returned
5 to the department in a form that is compatible with the
6 computerized database of the department.

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

23 8. Payment by the management corporation, out of its
24 allocated budget, to the department of all costs of
25 representation by the board counsel, including salary and
26 benefits, travel, and any other compensation traditionally
27 paid by the department to other board counsels.

28 9. Payment by the management corporation, out of its
29 allocated budget, to the department of all costs incurred by
30 the management corporation or the board for the Division of
31 Administrative Hearings of the Department of Management

hbd-05

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

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

1 Services and any other cost for utilization of these state
2 services.

3 10. Payment by the management corporation, out of its
4 allocated budget, to the department of all costs associated
5 with the contract administrator of the department, including
6 salary and benefits, travel, and other related costs
7 traditionally paid to state employees.

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

19 (k) Provide for persons charged with the
20 responsibility of receiving and depositing fee and fine
21 revenues to have a faithful performance bond in such an amount
22 and according to such terms as shall be determined in the
23 contract.

24 (l) Submit to the secretary, the board, and the
25 Legislature, on or before January 1 of each year, a report on
26 the status of the corporation which includes, but is not
27 limited to, information concerning the programs and funds that
28 have been transferred to the corporation. The report must
29 include: the number of license applications received; the
30 number approved and denied and the number of licenses issued;
31 the number of examinations administered and the number of

hbd-05

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

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

1 applicants who passed or failed the examination; the number of
2 complaints received; the number determined to be legally
3 sufficient; the number dismissed; the number determined to
4 have probable cause; the number of administrative complaints
5 issued and the status of the complaints; and the number and
6 nature of disciplinary actions taken by the board.

7 (m) Develop, with the department, performance
8 standards and measurable outcomes for the board to adopt by
9 rule in order to facilitate efficient and cost-effective
10 regulation.

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

13 509.036 Public food service inspector
14 standardization.--

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

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

23 509.036 Public food service inspector
24 standardization.--

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

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

hbd-05

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

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

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

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

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

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

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

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

20 (e) Enforcement of a marketing order.

21 (f) Protection of consumers.

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

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

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

hbd-05

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

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

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

3 Section 131. Section 570.074, Florida Statutes, is
4 amended to read:

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

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

18 624.307 General powers; duties.--

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

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

hbd-05

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

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

1 627.0623 Restrictions on expenditures and
2 solicitations of insurers and affiliates.--
3 (4) No employee of the department may solicit a
4 campaign contribution for the Treasurer or any candidate for
5 the office of Treasurer from any insurer, affiliate, or
6 officer of an insurer or affiliate, or any political committee
7 or committee of continuous existence that represents such
8 insurer, affiliate, or officer. For purposes of this section,
9 "employee of the department" means any person employed in the
10 Department of Insurance or the Treasurer's office holding a
11 position in the Senior Management Service as defined in s.
12 109.402 ~~110.402~~; any person holding a position in the Selected
13 Exempt Service as defined in s. 109.602 ~~110.602~~; any person
14 having authority over insurance policy, regulation, or
15 supervision; or any person hired on a contractual basis,
16 having the power normally conferred upon such person, by
17 whatever title.

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

20 627.6488 Florida Comprehensive Health Association.--
21 (4) The association shall:
22 (h) Contract with preferred provider organizations and
23 health maintenance organizations giving due consideration to
24 the preferred provider organizations and health maintenance
25 organizations which have contracted with the state group
26 health insurance program pursuant to s. 109.123 ~~110.123~~. If
27 cost-effective and available in the county where the
28 policyholder resides, the board, upon application or renewal
29 of a policy, shall place a high-risk individual, as
30 established under s. 627.6498(4)(a)4., with the plan case
31 manager who shall determine the most cost-effective quality

hbd-05

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

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

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

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

15 627.649 Administrator.--

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

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

26 Section 136. Paragraph (a) of subsection (2) and
27 subsection (3) of section 627.6498, Florida Statutes, are
28 amended to read:

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

31 (2) BENEFITS.--

hbd-05

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

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

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

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

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

26 627.6617 Coverage for home health care services.--

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

31 Section 138. Subsection (3) of section 655.019,

hbd-05

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

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

1 Florida Statutes, is amended to read:

2 655.019 Campaign contributions; limitations.--

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

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

23 943.0585 Court-ordered expunction of criminal history
24 records.--The courts of this state have jurisdiction over
25 their own procedures, including the maintenance, expunction,
26 and correction of judicial records containing criminal history
27 information to the extent such procedures are not inconsistent
28 with the conditions, responsibilities, and duties established
29 by this section. Any court of competent jurisdiction may
30 order a criminal justice agency to expunge the criminal
31 history record of a minor or an adult who complies with the

hbd-05

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

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

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

hbd-05

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

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

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

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

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

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

hbd-05

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

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

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

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

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

17 943.059 Court-ordered sealing of criminal history
 18 records.--The courts of this state shall continue to have
 19 jurisdiction over their own procedures, including the
 20 maintenance, sealing, and correction of judicial records
 21 containing criminal history information to the extent such
 22 procedures are not inconsistent with the conditions,
 23 responsibilities, and duties established by this section. Any
 24 court of competent jurisdiction may order a criminal justice
 25 agency to seal the criminal history record of a minor or an
 26 adult who complies with the requirements of this section. The
 27 court shall not order a criminal justice agency to seal a
 28 criminal history record until the person seeking to seal a
 29 criminal history record has applied for and received a
 30 certificate of eligibility for sealing pursuant to subsection
 31 (2). A criminal history record that relates to a violation of

hbd-05

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

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

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

31 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A

hbd-05

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

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

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

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

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

hbd-05

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

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

1 Professional Practices of the Department of Education, any
2 district school board, or any local governmental entity which
3 licenses child care facilities.

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

6 943.22 Salary incentive program for full-time
7 officers.--

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

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

14 944.35 Authorized use of force; malicious battery and
15 sexual misconduct prohibited; reporting required; penalties.--

16 (3)

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

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

26 945.043 Department-operated day care services.--

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

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

31 957.03 Correctional Privatization Commission.--

hbd-05

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

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

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

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

18 985.04 Oaths; records; confidential information.--

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

hbd-05

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

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

1 shall be released to those persons specified in the above
2 cited sections for the purposes of complying with those
3 sections. The court may punish by contempt any person who
4 releases or uses the records for any unauthorized purpose.

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

7 985.05 Court records.--

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

11 (e) Records of proceedings under this part may be used
12 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,
13 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
14 409.176, and 985.407.

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

17 985.4045 Sexual misconduct prohibited; reporting
18 required; penalties.--

19 (1)

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

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

28 216.262 Authorized positions.--

29 (1)

30 (c)1. The Executive Office of the Governor, under such
31 procedures and qualifications as it deems appropriate, shall,

hbd-05

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

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

1 upon agency request, delegate to any state agency authority to
2 add and delete authorized positions or transfer authorized
3 positions from one budget entity to another budget entity
4 within the same division, and may approve additions and
5 deletions of authorized positions or transfers of authorized
6 positions within the state agency when such changes would
7 enable the agency to administer more effectively its
8 authorized and approved programs. The additions or deletions
9 must be consistent with the intent of the approved operating
10 budget, must be consistent with legislative policy and intent,
11 and must not conflict with specific spending policies
12 specified in the General Appropriations Act.

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

21 3.a. A state agency may be eligible for an efficiency
22 award based on changes to authorized positions. To be
23 eligible, the agency must submit an application to the
24 Legislative Budgeting Commission identifying the modification
25 to an approved program resulting in efficiency and cost
26 savings.

27 b. The amount of the efficiency award shall be
28 determined by the Legislative Budgeting Commission but shall
29 not exceed the actual savings of currently appropriated funds.
30 In determining the amount of the award, the Legislative
31 Budgeting Commission shall consider the actual savings for the

hbd-05

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

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

1 current year and the annualized savings. The efficiency award
2 may be used for nonrecurring purposes only.

3 c. Each state agency allowed to retain salary
4 appropriations pursuant to this subparagraph shall submit in
5 its next legislative budget request a schedule showing how the
6 agency utilized such funds.

7 Section 149. Effective January 1, 2002, section
8 447.201, Florida Statutes, is amended to read:

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

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

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

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

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

hbd-05

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

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

1 Section 150. Effective January 1, 2002, subsections
2 (1), (3), and (4) of section 447.205, Florida Statutes, are
3 amended to read:

4 447.205 Public Employees Relations Commission.--

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

hbd-05

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

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

1 appointment shall be made for the unexpired term of that
2 office. The chair shall be responsible for the administrative
3 functions of the commission and shall have the authority to
4 employ such personnel as may be necessary to carry out the
5 provisions of this part. Once appointed to the office of
6 chair, the chair shall serve as chair for the duration of the
7 term of office of chair. Nothing contained herein prohibits a
8 chair or commissioner from serving multiple terms.

9 (3) The commission, in the performance of its powers
10 and duties under this part, shall not be subject to control,
11 supervision, or direction by the Department of Management
12 Services Labor and Employment Security.

13 (4) The property, personnel, and appropriations
14 related to the commission's specified authority, powers,
15 duties, and responsibilities shall be provided to the
16 commission by the Department of Management Services Labor and
17 Employment Security.

18 Section 151. Effective January 1, 2002, subsections
19 (8), (9), (10), and (11) of section 447.207, Florida Statutes,
20 are repealed.

21 Section 152. Effective July 1, 2001, section 447.208,
22 Florida Statutes, is amended to read:

23 447.208 Procedure for ~~with respect to~~ certain appeals
24 under s. 447.207.--

25 (1) Any person filing an appeal pursuant to subsection
26 (8) or subsection (9) of s. 447.207 shall be entitled to a
27 hearing pursuant to subsections (4) and (5) of s. 447.503 and
28 in accordance with chapter 120; however, the hearing shall be
29 conducted within 30 days of the filing of an appeal with the
30 commission, unless an extension of time is granted by the
31 commission for good cause. Discovery may be granted only upon

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 a showing of extraordinary circumstances. A party requesting
2 discovery shall demonstrate a substantial need for the
3 information requested and an inability to obtain relevant
4 information by other means. To the extent that chapter 120 is
5 inconsistent with these provisions, the procedures contained
6 in this section shall govern.

7 (2) This section does not prohibit any person from
8 representing himself or herself in proceedings before the
9 commission or from being represented by legal counsel or by
10 any individual who qualifies as a representative pursuant to
11 rules promulgated and adopted by the commission.

12 (3) With respect to hearings relating to demotions,
13 suspensions, or dismissals pursuant to the provisions of this
14 section:

15 (a)1. For an alleged adverse agency action against an
16 employee, except a law enforcement or correctional officer or
17 a firefighter, occurring on or after July 1, 2001, the burden
18 of proof shall be on the employee requesting the appeal to
19 establish by a preponderance of the evidence that the agency
20 head abused his or her discretion in demoting, suspending, or
21 dismissing the employee and that no reasonable cause existed
22 for the alleged adverse action taken by the agency.

23 2.(a) Upon a finding that the adversely affected
24 employee was unable to establish that the agency head abused
25 his or her discretion and was unable to establish that no
26 reasonable just cause existed for the demotion, suspension, or
27 dismissal, the commission shall affirm the demotion,
28 suspension, or dismissal.

29 3.(b) Upon a finding that the adversely affected
30 employee established that the agency head abused his or her
31 discretion and that no reasonable just cause existed did not

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 ~~exist~~ for the demotion, suspension, or dismissal, the
2 commission may order the reinstatement of the employee, with
3 or without back pay.

4 (b) With regard to a law enforcement or correctional
5 officer or a firefighter:

6 1. Upon a finding that just cause existed for the
7 demotion, suspension, or dismissal, the commission shall
8 affirm the demotion, suspension, or dismissal.

9 2. Upon a finding that just cause did not exist for
10 the demotion, suspension, or dismissal, the commission may
11 order the reinstatement of the law enforcement or correctional
12 officer or firefighter, with or without back pay.

13 3.(c) Upon a finding that just cause for disciplinary
14 action existed, but did not justify the severity of the action
15 taken, the commission may, in its limited discretion, reduce
16 the penalty.

17 ~~(d)~~ The commission is limited in its discretionary
18 reduction of dismissals and suspensions to consider only the
19 following circumstances:

20 a.1. The seriousness of the conduct as it relates to
21 the employee's duties and responsibilities.

22 b.2. Action taken with respect to similar conduct by
23 other employees.

24 c.3. The previous employment record and disciplinary
25 record of the employee.

26 d.4. Extraordinary circumstances beyond the employee's
27 control which temporarily diminished the employee's capacity
28 to effectively perform his or her duties or which
29 substantially contributed to the violation for which
30 punishment is being considered.

31

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 The agency may present evidence to refute the existence of
2 these circumstances.

3 ~~(c)(e)~~ Any order of the commission issued pursuant to
4 this subsection may include back pay, if applicable, and an
5 amount, to be determined by the commission and paid by the
6 agency, for reasonable attorney's fees, witness fees, and
7 other out-of-pocket expenses incurred during the prosecution
8 of an appeal against an agency in which the commission finds
9 sustains the employee met his or her burden of proof by
10 establishing that the agency head abused his or her discretion
11 and that no reasonable cause existed for the employee's
12 demotion, suspension, or dismissal. In determining the amount
13 of an attorney's fee, the commission shall consider only the
14 number of hours reasonably spent on the appeal, comparing the
15 number of hours spent on similar Career Service System appeals
16 and the reasonable hourly rate charged in the geographic area
17 for similar appeals, but not including litigation over the
18 amount of the attorney's fee. ~~This paragraph applies to future~~
19 ~~and pending cases.~~

20 Section 153. Effective January 1, 2002, sections
21 447.208 and 447.2085, Florida Statutes, are repealed.

22 Section 154. Paragraph (i) is added to subsection (4)
23 of section 447.307, Florida Statutes, to read:

24 447.307 Certification of employee organization.--

25 (4) In defining a proposed bargaining unit, the
26 commission shall take into consideration:

27 (i) Notwithstanding any other provision of law,
28 administrative rule, or decision to the contrary, it is in the
29 best interest of the state that all state law enforcement
30 agencies with 1,200 or more officers shall be placed in a
31 separate bargaining unit from officers in other state law

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 enforcement agencies. Should application of this requirement
2 result in the establishment or recomposition of more than one
3 state law enforcement bargaining unit, a question concerning
4 representation shall be deemed to have arisen for each
5 affected bargaining unit and, upon appropriate petition, a
6 representation election to determine the bargaining
7 representative shall be conducted.

8
9 However, no unit shall be established or approved for purposes
10 of collective bargaining which includes both professional and
11 nonprofessional employees unless a majority of each group
12 votes for inclusion in such unit.

13 Section 155. Effective July 1, 2001, paragraph (a) of
14 subsection (6) of section 447.503, Florida Statutes, is
15 amended to read:

16 447.503 Charges of unfair labor practices.--It is the
17 intent of the Legislature that the commission act as
18 expeditiously as possible to settle disputes regarding alleged
19 unfair labor practices. To this end, violations of the
20 provisions of s. 447.501 shall be remedied by the commission
21 in accordance with the following procedures and in accordance
22 with chapter 120; however, to the extent that chapter 120 is
23 inconsistent with the provisions of this section, the
24 procedures contained in this section shall govern:

25 (6)(a) If, upon consideration of the record in the
26 case, the commission finds that an unfair labor practice has
27 been committed, it shall issue and cause to be served an order
28 requiring the appropriate party or parties to cease and desist
29 from the unfair labor practice and take such positive action,
30 including reinstatement of employees with or without back pay,
31 as will best implement the general policies expressed in this

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 part. However, no order of the commission shall require the
2 reinstatement of any individual as an employee who has been
3 suspended or discharged, or the payment of any back pay, if
4 the individual was suspended or discharged as otherwise
5 provided by law ~~for cause~~. The order may further require the
6 party or parties to make periodic reports showing the extent
7 to which it has complied with the order. If, upon
8 consideration of the record in the case, the commission finds
9 that an unfair labor practice has not been or is not being
10 committed, it shall issue an order dismissing the case.

11 Section 156. Paragraph (a) of subsection (5) of
12 section 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 157. Effective January 1, 2002, paragraph (m)
30 of subsection (2) of section 39.202, Florida Statutes, is
31 amended to read:

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 39.202 Confidentiality of reports and records in cases
2 of child abuse or neglect.--

3 (2) Access to such records, excluding the name of the
4 reporter which shall be released only as provided in
5 subsection (4), shall be granted only to the following
6 persons, officials, and agencies:

7 (m) The Office of Employee Relations within the
8 Department of Management Services ~~Public Employees Relations~~
9 ~~Commission~~ for the sole purpose of obtaining evidence for
10 voluntary binding arbitration conducted ~~appeals filed~~ pursuant
11 to s. 109.240 ~~447.207~~. Records may be released only after
12 deletion of all information which specifically identifies
13 persons other than the employee.

14 Section 158. Effective January 1, 2002, subsection (4)
15 of section 112.044, Florida Statutes, as amended by this act,
16 is amended to read:

17 112.044 Public employers, employment agencies, labor
18 organizations; discrimination based on age prohibited;
19 exceptions; remedy.--

20 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of
21 the state ~~who is within the Career Service System established~~
22 ~~by chapter 109 and who is aggrieved by a violation of this act~~
23 ~~may appeal to the Public Employees Relations Commission under~~
24 ~~the conditions and following the procedures prescribed in part~~
25 ~~II of chapter 447. Any person other than an employee who is~~
26 ~~within the Career Service System established by chapter 109,~~
27 ~~or any person employed by the Public Employees Relations~~
28 ~~Commission, who is aggrieved by a violation of this act may~~
29 bring a civil action in any court of competent jurisdiction
30 for such legal or equitable relief as will effectuate the
31 purposes of this act, unless voluntary binding arbitration is

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 conducted pursuant to s. 109.240.

2 Section 159. Effective January 1, 2002, paragraph (b)
3 of subsection (6), subsection (14), and paragraph (a) of
4 subsection (15) of section 112.0455, Florida Statutes, are
5 amended to read:

6 112.0455 Drug-Free Workplace Act.--

7 (6) NOTICE TO EMPLOYEES.--

8 (b) Prior to testing, all employees and job applicants
9 for employment shall be given a written policy statement from
10 the employer which contains:

11 1. A general statement of the employer's policy on
12 employee drug use, which shall identify:

13 a. The types of testing an employee or job applicant
14 may be required to submit to, including reasonable suspicion
15 or other basis; and

16 b. The actions the employer may take against an
17 employee or job applicant on the basis of a positive confirmed
18 drug test result.

19 2. A statement advising the employee or job applicant
20 of the existence of this section.

21 3. A general statement concerning confidentiality.

22 4. Procedures for employees and job applicants to
23 confidentially report the use of prescription or
24 nonprescription medications both before and after being
25 tested. Additionally, employees and job applicants shall
26 receive notice of the most common medications by brand name or
27 common name, as applicable, as well as by chemical name, which
28 may alter or affect a drug test. A list of such medications
29 shall be developed by the Agency for Health Care
30 Administration.

31 5. The consequences of refusing to submit to a drug

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 test.

2 6. Names, addresses, and telephone numbers of employee
3 assistance programs and local alcohol and drug rehabilitation
4 programs.

5 7. A statement that an employee or job applicant who
6 receives a positive confirmed drug test result may contest or
7 explain the result to the employer within 5 working days after
8 written notification of the positive test result. If an
9 employee or job applicant's explanation or challenge is
10 unsatisfactory to the employer, the person may contest the
11 drug test result as provided by subsections (14) and (15).

12 8. A statement informing the employee or job applicant
13 of his or her responsibility to notify the laboratory of any
14 administrative or civil actions brought pursuant to this
15 section.

16 9. A list of all drugs for which the employer will
17 test, described by brand names or common names, as applicable,
18 as well as by chemical names.

19 10. A statement regarding any applicable collective
20 bargaining agreement or contract and the right to appeal to
21 the circuit court or request voluntary binding arbitration, if
22 applicable, as provided for by s. 109.240 ~~Public Employees~~
23 ~~Relations Commission.~~

24 11. A statement notifying employees and job applicants
25 of their right to consult the testing laboratory for technical
26 information regarding prescription and nonprescription
27 medication.

28 (14) DISCIPLINE REMEDIES.--

29 (a) An executive branch employee who is disciplined or
30 who is a job applicant for another position and is not hired
31 pursuant to this section, may file an appeal with the circuit

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 court or request voluntary binding arbitration, if applicable,
2 as provided for by s. 109.240 Public Employees Relations
3 Commission. Any appeal must be filed within 30 calendar days
4 of receipt by the employee or job applicant of notice of
5 discipline or refusal to hire. The notice shall inform the
6 employee or job applicant of the right to file an appeal, or
7 if available, the right to file a collective bargaining
8 grievance pursuant to s. 447.401. ~~Such appeals shall be~~
9 ~~resolved pursuant to the procedures established in ss.~~
10 ~~447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing
11 on the appeal shall be conducted within 30 days after ~~of~~ the
12 filing of the appeal, unless an extension is requested by the
13 employee or job applicant and granted by the court commission
14 or a collective bargaining grievance ~~an~~ arbitrator.

15 ~~(b) The commission shall promulgate rules concerning~~
16 ~~the receipt, processing, and resolution of appeals filed~~
17 ~~pursuant to this section.~~

18 ~~(c) Appeals to the commission shall be the exclusive~~
19 ~~administrative remedy for any employee who is disciplined or~~
20 ~~any job applicant who is not hired pursuant to this section,~~
21 ~~notwithstanding the provisions of chapter 120. However,~~
22 Nothing in this subsection shall affect the right of an
23 employee or job applicant to file a collective bargaining
24 grievance pursuant to s. 447.401 provided that an employee or
25 job applicant may not file both an appeal and a grievance.

26 ~~(d) An employee or a job applicant who has been~~
27 ~~disciplined or who has not been hired pursuant to this section~~
28 ~~must exhaust either the administrative appeal process or~~
29 ~~collective bargaining grievance arbitration process.~~

30 ~~(e) Upon resolving an appeal filed pursuant to~~
31 ~~paragraph (c), and finding a violation of this section, the~~

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 ~~commission may order the following relief:~~

2 1. ~~Rescind the disciplinary action, expunge related~~
3 ~~records from the personnel file of the employee or job~~
4 ~~applicant and reinstate the employee.~~

5 2. ~~Order compliance with paragraph (10)(g).~~

6 3. ~~Award back pay and benefits.~~

7 **(b)4.** The court may award the prevailing employee or
8 job applicant the necessary costs of the appeal, reasonable
9 attorney's fees, and expert witness fees.

10 (15) NONDISCIPLINE REMEDIES.--

11 (a) Any person alleging a violation of the provisions
12 of this section, that is not remediable ~~by the commission or~~
13 ~~an arbitrator~~ pursuant to subsection (14), must institute a
14 civil action for injunctive relief or damages, or both, in a
15 court of competent jurisdiction within 180 days of the alleged
16 violation, or be barred from obtaining the following relief.
17 Relief is limited to:

18 1. An order restraining the continued violation of
19 this section.

20 2. An award of the costs of litigation, expert witness
21 fees, reasonable attorney's fees, and noneconomic damages
22 provided that damages shall be limited to the recovery of
23 damages directly resulting from injury or loss caused by each
24 violation of this section.

25 Section 160. Effective July 1, 2001, paragraph (a) of
26 subsection (3) and subsection (4) of section 112.31895,
27 Florida Statutes, are amended to read:

28 112.31895 Investigative procedures in response to
29 prohibited personnel actions.--

30 (3) CORRECTIVE ACTION AND TERMINATION OF
31 INVESTIGATION.--

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 (a) The Florida Commission on Human Relations, in
2 accordance with this act and for the sole purpose of this act,
3 is empowered to:

4 1. Receive and investigate complaints from employees
5 alleging retaliation by state agencies, as the term "state
6 agency" is defined in s. 216.011.

7 2. Protect employees and applicants for employment
8 with such agencies from prohibited personnel practices under
9 s. 112.3187.

10 3. Petition for stays and petition for corrective
11 actions, including, but not limited to, temporary
12 reinstatement.

13 4. Recommend disciplinary proceedings pursuant to
14 investigation and appropriate agency rules and procedures.

15 5. Coordinate with the Chief Inspector General in the
16 Executive Office of the Governor and the Florida Commission on
17 Human Relations to receive, review, and forward to appropriate
18 agencies, legislative entities, or the Department of Law
19 Enforcement disclosures of a violation of any law, rule, or
20 regulation, or disclosures of gross mismanagement,
21 malfeasance, misfeasance, nonfeasance, neglect of duty, or
22 gross waste of public funds.

23 6. Review rules pertaining to personnel matters issued
24 or proposed by the Department of Management Services, the
25 Office of Employee Relations, the Public Employees Relations
26 Commission, and other agencies, and, if the Florida Commission
27 on Human Relations finds that any rule or proposed rule, on
28 its face or as implemented, requires the commission of a
29 prohibited personnel practice, provide a written comment to
30 the appropriate agency.

31 7. Investigate, request assistance from other

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 governmental entities, and, if appropriate, bring actions
 2 concerning, allegations of retaliation by state agencies under
 3 subparagraph 1.

4 8. Administer oaths, examine witnesses, take
 5 statements, issue subpoenas, order the taking of depositions,
 6 order responses to written interrogatories, and make
 7 appropriate motions to limit discovery, pursuant to
 8 investigations under subparagraph 1.

9 9. Intervene or otherwise participate, as a matter of
 10 right, in any appeal or other proceeding arising under this
 11 section before an ~~the Public Employees Relations Commission or~~
 12 ~~any other appropriate~~ agency, except that the Florida
 13 Commission on Human Relations must comply with the rules of
 14 that ~~the commission or other~~ agency and may not seek
 15 corrective action or intervene in an appeal or other
 16 proceeding without the consent of the person protected under
 17 ss. 112.3187-112.31895.

18 10. Conduct an investigation, in the absence of an
 19 allegation, to determine whether reasonable grounds exist to
 20 believe that a prohibited action or a pattern of prohibited
 21 action has occurred, is occurring, or is to be taken.

22 (4) RIGHT TO APPEAL.--

23 ~~(a)~~ Not more than 60 days after receipt of a notice of
 24 termination of the investigation from the Florida Commission
 25 on Human Relations, the complainant may file for judicial
 26 review of the notice of termination as provided for in s.
 27 120.68. The notice of termination of the investigation, which
 28 shall contain a statement of facts, analysis, and conclusions,
 29 shall be considered final agency action for purposes of s.
 30 120.68., with the Public Employees Relations Commission, a
 31 ~~complaint against the hearings regarding the alleged~~

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 ~~prohibited personnel action. The Public Employees Relations~~
2 ~~Commission shall have jurisdiction over such complaints under~~
3 ~~ss. 112.3187 and 447.503(4) and (5).~~

4 ~~(b) Judicial review of any final order of the~~
5 ~~commission shall be as provided in s. 120.68.~~

6 Section 161. Effective January 1, 2002, paragraph (a)
7 of subsection (3) of section 112.31895, Florida Statutes, as
8 amended by this act, is amended to read:

9 112.31895 Investigative procedures in response to
10 prohibited personnel actions.--

11 (3) CORRECTIVE ACTION AND TERMINATION OF
12 INVESTIGATION.--

13 (a) The Florida Commission on Human Relations, in
14 accordance with this act and for the sole purpose of this act,
15 is empowered to:

16 1. Receive and investigate complaints from employees
17 alleging retaliation by state agencies, as the term "state
18 agency" is defined in s. 216.011.

19 2. Protect employees and applicants for employment
20 with such agencies from prohibited personnel practices under
21 s. 112.3187.

22 3. Petition for stays and petition for corrective
23 actions, including, but not limited to, temporary
24 reinstatement.

25 4. Recommend disciplinary proceedings pursuant to
26 investigation and appropriate agency rules and procedures.

27 5. Coordinate with the Chief Inspector General in the
28 Executive Office of the Governor and the Florida Commission on
29 Human Relations to receive, review, and forward to appropriate
30 agencies, legislative entities, or the Department of Law
31 Enforcement disclosures of a violation of any law, rule, or

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 regulation, or disclosures of gross mismanagement,
2 malfeasance, misfeasance, nonfeasance, neglect of duty, or
3 gross waste of public funds.

4 6. Review rules pertaining to personnel matters issued
5 or proposed by the Department of Management Services, the
6 Office of Employee Relations, ~~the Public Employees Relations~~
7 ~~Commission~~, and other agencies, and, if the Florida Commission
8 on Human Relations finds that any rule or proposed rule, on
9 its face or as implemented, requires the commission of a
10 prohibited personnel practice, provide a written comment to
11 the appropriate agency.

12 7. Investigate, request assistance from other
13 governmental entities, and, if appropriate, bring actions
14 concerning, allegations of retaliation by state agencies under
15 subparagraph 1.

16 8. Administer oaths, examine witnesses, take
17 statements, issue subpoenas, order the taking of depositions,
18 order responses to written interrogatories, and make
19 appropriate motions to limit discovery, pursuant to
20 investigations under subparagraph 1.

21 9. Intervene or otherwise participate, as a matter of
22 right, in any appeal or other proceeding arising under this
23 section before an agency, except that the Florida Commission
24 on Human Relations must comply with the rules of that agency
25 and may not seek corrective action or intervene in an appeal
26 or other proceeding without the consent of the person
27 protected under ss. 112.3187-112.31895.

28 10. Conduct an investigation, in the absence of an
29 allegation, to determine whether reasonable grounds exist to
30 believe that a prohibited action or a pattern of prohibited
31 action has occurred, is occurring, or is to be taken.

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 Section 162. Effective July 1, 2001, subsection (12)
2 of section 120.80, Florida Statutes, is amended to read:

3 120.80 Exceptions and special requirements;
4 agencies.--

5 (12) OFFICE OF EMPLOYEE RELATIONS;PUBLIC EMPLOYEES
6 RELATIONS COMMISSION.--

7 (a) Notwithstanding s. 120.57(1)(a), hearings within
8 the jurisdiction of the Office of Employee Relations within
9 the Department of Management Services or the Public Employees
10 Relations Commission need not be conducted by an
11 administrative law judge assigned by the division.

12 (b) Section 120.60 does not apply to certification of
13 employee organizations pursuant to s. 447.307.

14 Section 163. Paragraph (d) of subsection (2) of
15 section 125.0108, Florida Statutes, is repealed.

16 Section 164. Paragraph (b) of subsection (9) of
17 section 376.75, Florida Statutes, is amended to read:

18 376.75 Tax on production or importation of
19 perchloroethylene.--

20 (9)

21 ~~(b) The Department of Revenue, under the applicable~~
22 ~~rules of the Public Employees Relations Commission, is~~
23 ~~authorized to employ persons and incur other expenses for~~
24 ~~which funds are appropriated by the Legislature.~~The
25 Department of Revenue is empowered to adopt such rules and
26 shall prescribe and publish such forms as may be necessary to
27 effectuate the purposes of this section.

28 Section 165. Paragraph (b) of subsection (3) of
29 section 403.718, Florida Statutes, is amended to read:

30 403.718 Waste tire fees.--

31 (3)

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 (b) ~~The Department of Revenue, under the applicable~~
2 ~~rules of the Career Service Commission, is authorized to~~
3 ~~employ persons and incur other expenses for which funds are~~
4 ~~appropriated by the Legislature.~~ The department is empowered
5 to adopt such rules and shall prescribe and publish such forms
6 as may be necessary to effectuate the purposes of this
7 section. The department is authorized to establish audit
8 procedures and to assess delinquent fees.

9 Section 166. Section 538.11, Florida Statutes, is
10 amended to read:

11 538.11 Powers and duties of department; rules.--The
12 same duties and privileges imposed by chapter 212 upon dealers
13 of tangible personal property respecting the keeping of books
14 and records and accounts and compliance with rules of the
15 department shall apply to and be binding upon all persons who
16 are subject to the provisions of this chapter. The department
17 shall administer, collect, and enforce the registration
18 authorized under this chapter pursuant to the same procedures
19 used in the administration, collection, and enforcement of the
20 general state sales tax imposed under chapter 212, except as
21 provided in this section. The provisions of chapter 212
22 regarding the keeping of records and books shall apply. ~~The~~
23 ~~department, under the applicable rules of the Career Service~~
24 ~~Commission, is authorized to employ persons and incur other~~
25 ~~expenses for which funds are appropriated by the Legislature.~~
26 The department is empowered to adopt such rules, and shall
27 prescribe and publish such forms, as may be necessary to
28 effectuate the purposes of this chapter. The Legislature
29 hereby finds that the failure to promptly implement the
30 provisions of this chapter would present an immediate threat
31 to the welfare of the state. Therefore, the executive director

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 of the department is hereby authorized to adopt emergency
2 rules pursuant to s. 120.54(4), for purposes of implementing
3 this chapter. Notwithstanding any other provision of law, such
4 emergency rules shall remain effective for 6 months from the
5 date of adoption. Other rules of the department related to and
6 in furtherance of the orderly implementation of the chapter
7 shall not be subject to a rule challenge under s. 120.56(2) or
8 a drawout proceeding under s. 120.54(3)(c)2. but, once
9 adopted, shall be subject to an invalidity challenge under s.
10 120.56(3). Such rules shall be adopted by the Governor and
11 Cabinet and shall become effective upon filing with the
12 Department of State, notwithstanding the provisions of s.
13 120.54(3)(e)6.

14 Section 167. Effective July 1, 2001, section 284.30,
15 Florida Statutes, is amended to read:

16 284.30 State Risk Management Trust Fund; coverages to
17 be provided.--A state self-insurance fund, designated as the
18 "State Risk Management Trust Fund," is created to be set up by
19 the Department of Insurance and administered with a program of
20 risk management, which fund is to provide insurance, as
21 authorized by s. 284.33, for workers' compensation, general
22 liability, fleet automotive liability, federal civil rights
23 actions under 42 U.S.C. s. 1983 or similar federal statutes,
24 and court-awarded attorney's fees in other proceedings against
25 the state except for such awards in eminent domain or for
26 inverse condemnation or for awards by the Public Employees
27 Relations Commission or by the Office of Employee Relations.
28 A party to a suit in any court, to be entitled to have his or
29 her attorney's fees paid by the state or any of its agencies,
30 must serve a copy of the pleading claiming the fees on the
31 Department of Insurance; and thereafter the department shall

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 be entitled to participate with the agency in the defense of
2 the suit and any appeal thereof with respect to such fees.

3 Section 168. Effective July 1, 2001, section 284.31,
4 Florida Statutes, is amended to read:

5 284.31 Scope and types of coverages; separate
6 accounts.--The insurance risk management trust fund shall,
7 unless specifically excluded by the Department of Insurance,
8 cover all departments of the State of Florida and their
9 employees, agents, and volunteers and shall provide separate
10 accounts for workers' compensation, general liability, fleet
11 automotive liability, federal civil rights actions under 42
12 U.S.C. s. 1983 or similar federal statutes, and court-awarded
13 attorney's fees in other proceedings against the state except
14 for such awards in eminent domain or for inverse condemnation
15 or for awards by the Public Employees Relations Commission or
16 by the Office of Employee Relations. Unless specifically
17 excluded by the Department of Insurance, the insurance risk
18 management trust fund shall provide fleet automotive liability
19 coverage to motor vehicles titled to the state, or to any
20 department of the state, when such motor vehicles are used by
21 community transportation coordinators performing, under
22 contract to the appropriate department of the state, services
23 for the transportation disadvantaged under part I of chapter
24 427. Such fleet automotive liability coverage shall be primary
25 and shall be subject to the provisions of s. 768.28 and parts
26 II and III of chapter 284, and applicable rules adopted
27 thereunder, and the terms and conditions of the certificate of
28 coverage issued by the Department of Insurance.

29 Section 169. Effective January 1, 2002, paragraph (k)
30 of subsection (3) of section 415.107, Florida Statutes, is
31 amended to read:

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 415.107 Confidentiality of reports and records.--

2 (3) Access to all records, excluding the name of the
3 reporter which shall be released only as provided in
4 subsection (6), shall be granted only to the following
5 persons, officials, and agencies:

6 (k) The Office of Employee Relations ~~Public Employees~~
7 ~~Relations Commission~~ for the sole purpose of obtaining
8 evidence for voluntary binding arbitration conducted appeals
9 filed pursuant to s. 109.240 and the Public Employees
10 Relations Commission for the purpose of obtaining evidence for
11 appeals filed pursuant to s. 447.207. Records may be released
12 only after deletion of all information that specifically
13 identifies persons other than the employee.

14 Section 170. Effective January 1, 2002, paragraph (c)
15 of subsection (3) of section 944.35, Florida Statutes, and
16 paragraph (b) of subsection (1) of section 985.4045, Florida
17 Statutes, are repealed.

18 Section 171. The Office of Employee Relations within
19 the Department of Management Services shall coordinate the
20 development and implementation of a transition plan that
21 supports the implementation of this act. The Department of
22 Labor and Employment Security, the Public Employees Relations
23 Commission, and all other state agencies identified by the
24 office shall cooperate fully in developing and implementing
25 the plan and shall dedicate the financial and staff resources
26 that are necessary for such implementation.

27 Section 172. (1) Until July 1, 2001, the Public
28 Employees Relations Commission shall continue to exercise its
29 powers, duties, and functions pursuant to the authority
30 granted it under the Florida Statutes 2000.

31 (2) On and after July 1, 2001, the Public Employees

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 Relations Commission shall continue to exercise its powers,
2 duties, and functions pursuant to this act's amendments which
3 take effect July 1, 2001. As to those cases within the Public
4 Employees Relations Commission jurisdiction regarding the
5 suspension, dismissal, reduction in pay, demotion, layoff, or
6 transfer of a career service employee that are pending before
7 the commission on January 1, 2002, the commission shall
8 continue to exercise its authority in order to finalize those
9 existing cases under review.

10 (3) After June 30, 2002, the jurisdiction of the
11 Public Employees Relations Commission to hear appeals arising
12 out of any suspension, dismissal, reduction in pay, demotion,
13 layoff, or transfer of an employee in the Career Service
14 System shall cease to exist.

15 Section 173. There is appropriated to the Department
16 of Management Services for fiscal year 2000-2001, \$26,208 of
17 nonrecurring general revenue for the purpose of establishing
18 an administrative staff to implement the provisions of this
19 act.

20 Section 174. Effective January 1, 2002, the Public
21 Employees Relations Commission is transferred from the
22 Department of Labor and Employment Security to the Department
23 of Management Services. The Public Employees Relations
24 Commission shall have all its statutory powers, duties, and
25 functions, as otherwise provided for in this act, transferred
26 to the Department of Management Services. All the Public
27 Employees Relations Commission's records, personnel, property,
28 and unexpended balances of appropriations, allocations, or
29 other funds are transferred to the Department of Management
30 Services as of January 1, 2002, except that such portion of
31 the personnel, property, and unexpended balances of

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 appropriations, allocations, or other funds shall be
2 transferred to the Office of Employee Relations within the
3 Department of Management Services as is sufficient for that
4 office to accomplish its duties and responsibilities as
5 provided for in this act. Accordingly, the Executive Office of
6 the Governor shall process a budget amendment, or budget
7 amendments, subject to legislative notice and review under s.
8 216.177, Florida Statutes, to transfer such records,
9 personnel, property, and unexpended balances of
10 appropriations, allocations, or other funds of the Public
11 Employees Relations Commission to the Office of Employee
12 Relations as is sufficient for that office to perform its
13 statutory duties and responsibilities. The Office of Employee
14 Relations, the Public Employees Relations Commission, and the
15 Department of Management Services shall work cooperatively in
16 preparing and forwarding to the Executive Office of the
17 Governor a recommended budget amendment, or amendments, no
18 later than September 1, 2001.

19 Section 175. The Department of Management Services
20 shall adopt, amend, or repeal rules as necessary to effectuate
21 the provisions of chapter 109, Florida Statutes, as created by
22 this act, and in accordance with the authority granted to the
23 department in chapter 109, Florida Statutes.

24 Section 176. Except as otherwise provided herein, this
25 act shall take effect upon becoming a law.

26
27

28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:
30 remove from the title of the bill: the entire title

31

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 and insert in lieu thereof:

2 A bill to be entitled
3 An act relating to public employees;
4 renumbering parts I, II, III, IV, and V of ch.
5 110, F.S., as parts I, II, III, IV, and V of
6 ch. 109, F.S.; amending and renumbering s.
7 110.107, F.S.; revising definitions; repealing
8 s. 110.108, F.S., relating to pilot projects
9 for agencies seeking managerial flexibility for
10 personnel programs, s. 110.109, F.S., relating
11 to personnel audits of agencies, and s.
12 110.1095, F.S., relating to training programs
13 for supervisors and managers; amending and
14 renumbering s. 110.1099, F.S.; specifying
15 duties of agency heads with respect to
16 education and training opportunities for state
17 employees; amending and renumbering s. 110.112,
18 F.S.; providing policy relating to use of human
19 resources; revising provisions relating to
20 implementation of affirmative action plans by
21 agency heads, state attorneys, and public
22 defenders; amending and renumbering s. 110.113,
23 F.S.; requiring all state employees to
24 participate in the direct deposit program;
25 revising conditions for requesting an
26 exemption; amending and renumbering s. 110.124,
27 F.S.; providing that an employee who is
28 terminated solely because of attaining age 65
29 may request voluntary binding arbitration or
30 apply to the circuit court for relief; amending
31 and renumbering s. 110.1245, F.S.; providing

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 for a savings sharing program of awards for
2 certain state agency and judicial branch
3 employees; requiring a report; providing for
4 annual bonus payments to employees; directing
5 agency heads to develop a plan for awarding
6 bonuses and providing requirements with respect
7 thereto; authorizing department heads to incur
8 expenditures for certain awards; repealing s.
9 110.1246, F.S., which provides for lump-sum
10 bonus payments to employees; amending and
11 renumbering s. 110.131, F.S.; revising the time
12 limitation on employment of
13 other-personal-services temporary employees;
14 requiring approval of the Governor's Office of
15 Policy and Budget for extensions of such
16 limitations; revising exemptions from such
17 limitation; amending and renumbering s.
18 110.203, F.S.; revising definitions; revising
19 the definition of "layoff" to include
20 outsourcing or privatization; creating s.
21 109.2035, F.S.; directing the Department of
22 Management Services, in consultation with
23 specified entities, to develop a civil service
24 classification and compensation program and
25 providing requirements with respect thereto;
26 directing the department to establish
27 guidelines regarding certain types of pay and
28 providing duties of agencies with respect
29 thereto; amending and renumbering s. 110.205,
30 F.S.; providing additional positions that are
31 exempt from the Career Service System and

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 included in the Selected Exempt Service;
2 providing that when an employee transfers from
3 the Career Service System to the Selected
4 Exempt Service, unused annual and sick leave,
5 and, under certain conditions, unused
6 compensatory leave, shall carry forward;
7 repealing ss. 109.207 and 109.209, F.S., as
8 renumbered by the act, relating to
9 establishment and maintenance of a uniform
10 classification plan and an equitable pay plan
11 and related agency duties; amending and
12 renumbering ss. 110.211 and 110.213, F.S.;
13 revising requirements with respect to
14 recruitment and selection; requiring completion
15 of a probationary period before attainment of
16 permanent status for new employees; amending
17 and renumbering s. 110.219, F.S.; providing
18 requirements regarding leave benefits for
19 Senior Management Service employees; amending
20 and renumbering s. 110.224, F.S.; revising
21 requirements relating to a review and
22 performance planning system and designating
23 such system a public employee performance
24 evaluation system; revising requirements
25 relating to certain information furnished to
26 employees and employee evaluation; amending and
27 renumbering s. 110.227, F.S.; providing that a
28 career service employee other than a law
29 enforcement or correctional officer or a
30 firefighter may be suspended or dismissed for
31 reasonable cause; providing that reasonable

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 cause shall be determined by the agency head
2 and specifying actions included thereunder;
3 specifying actions that constitute an abuse of
4 the agency head's sound discretion; revising
5 certain responsibilities of agency heads;
6 providing that, except with regard to law
7 enforcement or correctional officers or
8 firefighters, rules regarding layoff shall not
9 include "bumping"; deleting a requirement that
10 a layoff be conducted within an identified
11 competitive area with regard to employees other
12 than law enforcement or correctional officers
13 or firefighters; providing for appeal of
14 reductions in pay, transfers, layoffs, or
15 demotions to, and hearings regarding suspension
16 or dismissal before, the circuit court, or for
17 voluntary binding arbitration with respect
18 thereto; providing that, for any alleged
19 adverse agency action against an employee other
20 than a law enforcement or correctional officer
21 or a firefighter occurring after a specified
22 date, the employee bears the burden of proof to
23 establish that the agency head abused his or
24 her discretion; creating s. 109.237, F.S. ;
25 creating an Office of Employee Relations within
26 the Department of Management Services;
27 providing for an executive director, a general
28 counsel, and an administrative assistant, and
29 their qualifications and duties; providing for
30 additional personnel; providing duties of the
31 department; providing powers and duties of the

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 office; creating s. 109.240, F.S.; providing
2 that any permanent career service employee may
3 request voluntary binding arbitration
4 administered by the Office of Employee
5 Relations upon notice of an adverse agency
6 action; providing definitions; providing
7 requirements for such requests; providing for
8 notice to the agency; specifying the employee's
9 burden of proof; providing for arbitrators and
10 their qualifications and authority; providing
11 for employee panels and their qualifications
12 and authority; providing duties of the office;
13 providing for records; providing procedural
14 requirements for arbitration proceedings;
15 providing for rules; providing for application
16 to the circuit court for an order confirming,
17 vacating, or modifying the arbitration
18 decision; providing for immunity; amending and
19 renumbering s. 110.403, F.S.; increasing the
20 limit on the number of Senior Management
21 Service positions; amending and renumbering s.
22 110.602, F.S.; removing the limit on the number
23 of Selected Exempt Service positions; amending
24 and renumbering ss. 110.1091, 110.1127,
25 110.117, 110.1227, 110.123, 110.12312,
26 110.1232, 110.129, 110.152, 110.1521, 110.1522,
27 110.1523, 110.161, 110.171, 110.191, 110.233,
28 110.235, 110.401, 110.402, 110.406, 110.502,
29 110.601, 110.605, and 110.606, F.S.; clarifying
30 and conforming language and correcting cross
31 references; amending ss. 20.171, 20.18, 20.21,

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 20.23, 20.255, 20.315, 24.105, 24.122, 68.087,
 2 104.31, 106.082, 106.24, 112.044, 112.0805,
 3 112.313, 112.3189, 112.363, 121.021, 121.0515,
 4 121.055, 121.35, 215.94, 216.011, 216.251,
 5 231.381, 235.217, 240.209, 240.2111, 240.507,
 6 241.002, 242.331, 260.0125, 281.02, 287.175,
 7 288.708, 295.07, 296.04, 296.34, 311.07,
 8 339.175, 343.74, 381.85, 393.0657, 400.19,
 9 400.953, 402.3057, 402.55, 402.731, 409.1757,
 10 440.102, 440.4416, 443.171, 456.048, 471.038,
 11 509.036, 570.073, 570.074, 624.307, 627.0623,
 12 627.6488, 627.649, 627.6498, 627.6617, 655.019,
 13 943.0585, 943.059, 943.22, 944.35, 945.043,
 14 957.03, 985.04, 985.05, and 985.4045, F.S. ;
 15 conforming language and correcting cross
 16 references; amending s. 216.262, F.S. ;
 17 authorizing efficiency awards to state agencies
 18 based on changes to authorized positions and
 19 providing requirements with respect thereto;
 20 amending s. 447.201, F.S., relating to the
 21 statement of public policy regarding public
 22 employees; amending s. 447.205, F.S., relating
 23 to creation of the Public Employees Relations
 24 Commission; repealing s. 447.207(8), (9), (10),
 25 and (11), F.S., which provide for appeals to
 26 the commission with regard to adverse agency
 27 actions against career service employees;
 28 amending s. 447.208, F.S.; providing the
 29 employee's burden of proof for alleged adverse
 30 agency actions occurring on or after July 1,
 31 2001; repealing s. 447.208, F.S., which

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 provides procedures for appeals to the
2 commission regarding certain adverse agency
3 actions, and s. 447.2085, F.S., which provides
4 for rules with respect thereto, effective
5 January 1, 2002; amending s. 447.307, F.S.;
6 providing requirements with respect to
7 bargaining units for certain law enforcement
8 agencies; amending s. 447.503, F.S.; conforming
9 language; amending s. 447.507, F.S.; revising
10 conditions under which a person who violates
11 the strike prohibition may be employed or
12 appointed; amending s. 39.202, F.S.; providing
13 for access to certain records by the office;
14 amending s. 112.044, F.S., which prohibits age
15 discrimination against public employees;
16 providing for court action by an aggrieved
17 employee if voluntary binding arbitration is
18 not conducted; amending s. 112.0455, F.S., the
19 Drug-Free Workplace Act; providing for appeals
20 with respect to discipline or not being hired
21 under said act to the circuit court rather than
22 the commission, or for voluntary binding
23 arbitration; amending s. 112.31895, F.S.;
24 providing for judicial review of notice of
25 termination of an investigation in connection
26 with the Whistle-blower's Act rather than
27 commission review; conforming language;
28 amending s. 120.80, F.S.; conforming language;
29 repealing s. 125.0108(2)(d), F.S., and amending
30 ss. 376.75, 403.718, and 538.11, F.S.; removing
31 provisions which authorize certain actions by

hbd-05

Bill No. CS for SB 466, 2nd Eng.

Amendment No. ____ (for drafter's use only)

1 the Department of Revenue pursuant to rules of
2 the commission or the Career Service
3 Commission; amending ss. 284.30 and 284.31,
4 F.S.; conforming language; amending s. 415.107,
5 F.S.; providing for access to certain records
6 by the office; repealing ss. 944.35(3)(c) and
7 985.4045(1)(b), F.S., which provide that
8 violations by Department of Corrections
9 employees of prohibitions against malicious
10 battery and sexual misconduct, and violations
11 by Department of Juvenile Justice employees of
12 the prohibition against sexual misconduct, as
13 determined by the commission, constitute cause
14 for dismissal; directing the office to
15 coordinate a transition plan; specifying
16 transitional powers and duties of the
17 commission and providing that it shall cease to
18 hear certain appeals after June 30, 2002;
19 providing an appropriation; transferring the
20 commission to the Department of Management
21 Services and certain of its property and
22 personnel to the office; providing for budget
23 amendments; providing for rules; providing
24 effective dates.

25
26
27
28
29
30
31