

1 A bill to be entitled
2 An act relating to public employment; amending
3 s. 20.23, F.S.; eliminating provisions
4 requiring that the inspector general position
5 in the Department of Transportation be within
6 the Career Service System; repealing ss.
7 110.108 and 110.109, F.S., relating to
8 personnel pilot projects, productivity
9 improvement, and personnel audits of executive
10 branch agencies; amending s. 110.1091, F.S.;
11 revising provisions relating to programs to
12 assist state employees; repealing s. 110.1095,
13 F.S., relating to supervisory and management
14 training and continuing education for executive
15 branch agencies; amending s. 110.1099, F.S.;
16 revising provisions relating to education and
17 training opportunities for state employees;
18 including courses at public community colleges
19 and technical centers; providing for funding;
20 amending s. 110.1127, F.S., relating to
21 security background checks for certain state
22 employee positions; amending s. 110.113, F.S.;
23 requiring all state employees except those who
24 receive an exemption to participate in the
25 direct deposit program; amending s. 110.1245,
26 F.S.; providing for a savings sharing program
27 for employees whose proposals result in
28 savings; providing for bonus payments;
29 eliminating the meritorious service awards
30 program; requiring that such bonuses be paid
31 from funds authorized by the Legislature;

1 revising the amount of certain awards;
2 repealing s. 110.1246, F.S., relating to
3 lump-sum bonus payments; amending s. 110.129,
4 F.S., relating to technical assistance to
5 improve personnel administration for
6 municipalities or other political subdivisions;
7 amending s. 110.131, F.S.; requiring approval
8 by the Executive Office of the Governor for an
9 extension in hours of other-personal-services
10 temporary employment; providing certain
11 exceptions; amending s. 110.203, F.S.; revising
12 definitions; including the outsourcing and
13 privatization of an activity or function within
14 the definition of "layoff"; defining
15 "firefighter," "law enforcement or correctional
16 officer," and "professional health care
17 provider"; creating s. 110.2035, F.S.;
18 requiring the Department of Management Services
19 to develop a classification and compensation
20 program for certain employees; providing
21 requirements for the program; requiring that
22 the department submit a proposed plan to the
23 Governor and the Legislature; requiring the
24 department to adopt rules establishing
25 guidelines relating to specified pay additives
26 and providing duties of agencies with respect
27 thereto; amending s. 110.205, F.S.; revising
28 the positions that are exempt from the Career
29 Service System and providing additional exempt
30 positions; providing for carrying leave
31 forward; repealing ss. 110.207 and 110.209,

1 F.S., which provide for establishment of
2 uniform classification and pay plans; amending
3 s. 110.211, F.S.; revising requirements
4 relating to recruitment and responsibility
5 therefor and authorizing assistance by
6 contracted vendors; removing a requirement for
7 model recruitment rules; amending s. 110.213,
8 F.S.; revising requirements relating to
9 selection and responsibility therefor;
10 requiring a probationary period for new
11 employees; removing a requirement for model
12 selection rules; amending s. 110.219, F.S.;

13 providing requirements for leave benefits for
14 Senior Management Service employees; providing
15 for a year-end payout of annual leave to
16 specified employees under specified
17 circumstances; amending s. 110.224, F.S.;

18 providing for a public employee performance
19 evaluation system; providing requirements for
20 the system; authorizing the department to adopt
21 rules; amending s. 110.227, F.S.; prohibiting
22 "bumping"; providing certain exceptions;
23 providing requirements relating to
24 implementation of layoffs and revising
25 application of existing provisions prescribing
26 layoff procedures; revising the definition of
27 cause, for which a career service employee may
28 be suspended or dismissed; revising certain
29 agency head duties; providing procedures for
30 the grievance process and specifying actions
31 subject to such process; revising notice

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

1 amending s. 447.205, F.S.; conforming language;
2 amending s. 447.207, F.S.; revising authority
3 of the Public Employees Relations Commission to
4 hear certain appeals; amending s. 447.208,
5 F.S.; conforming language; amending procedures
6 for specified appeals; amending s. 447.507,
7 F.S.; revising requirements for the probation
8 served by certain public employees who have
9 violated the strike prohibition; amending s.
10 112.215, F.S.; authorizing certain pretax
11 trustee-to-trustee transfer of deferred
12 compensation accounts; transferring the Public
13 Employees Relations Commission from the
14 Department of Labor and Employment Security to
15 the Department of Management Services;
16 transferring powers, duties, functions, rules,
17 records, personnel, property, and unexpended
18 balances; providing for the commission's
19 independence under specified circumstances;
20 requiring the department to adopt rules and
21 providing for repeal of certain rules; creating
22 s. 110.1315, F.S.; authorizing the department
23 to contract for an alternative retirement
24 income security program for temporary and
25 seasonal employees; providing requirements for
26 selecting a vendor; amending s. 447.403, F.S.;
27 revising requirements for resolving an impasse
28 in collective bargaining negotiations;
29 prohibiting the appointment of a mediator if
30 the Governor is the employer; requiring notice
31 to the Legislature when an impasse exists;

1 providing for appointment of a joint select
2 committee to recommend resolution; providing
3 for legislative action; amending s. 216.163,
4 F.S., relating to an impasse in collective
5 bargaining negotiations; removing a requirement
6 that the Governor furnish certain documentation
7 to legislative appropriations committees;
8 authorizing the department to develop
9 tax-sheltered plans for state employees
10 eligible for payment for accumulated leave;
11 providing requirements with respect thereto;
12 authorizing the department to contract for a
13 tax-sheltered plan for leave and special
14 compensation pay for certain employees;
15 creating a Career Service Advisory Group;
16 providing for appointment and qualifications of
17 members; providing its duties; providing for
18 expiration; providing an appropriation;
19 providing for severability; providing effective
20 dates.

21

22 Be It Enacted by the Legislature of the State of Florida:

23

24 Section 1. Paragraph (h) of subsection (3) of section
25 20.23, Florida Statutes, is amended to read:26 20.23 Department of Transportation.--There is created
27 a Department of Transportation which shall be a decentralized
28 agency.

29 (3)

30 (h)1. The secretary shall appoint an inspector general
31 pursuant to s. 20.055. ~~To comply with recommended professional~~

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

1 inspector general shall have access at all times to any
2 personnel, records, data, or other information of the
3 department and shall determine the methods and procedures
4 necessary to carry out his or her duties. The inspector
5 general is responsible for audits of departmental operations
6 and for audits of consultant contracts and agreements, and
7 such audits shall be conducted in accordance with generally
8 accepted governmental auditing standards. The inspector
9 general shall annually perform a sufficient number of audits
10 to determine the efficiency and effectiveness, as well as
11 verify the accuracy of estimates and charges, of contracts
12 executed by the department with private entities and other
13 governmental entities. The inspector general has the sole
14 responsibility for the contents of his or her reports, and a
15 copy of each report containing his or her findings and
16 recommendations shall be furnished directly to the secretary
17 and the commission.

18 2. In addition to the authority and responsibilities
19 herein provided, the inspector general is required to report
20 to the:

21 a. Secretary whenever the inspector general makes a
22 preliminary determination that particularly serious or
23 flagrant problems, abuses, or deficiencies relating to the
24 administration of programs and operations of the department
25 have occurred. The secretary shall review and assess the
26 correctness of the preliminary determination by the inspector
27 general. If the preliminary determination is substantiated,
28 the secretary shall submit such report to the appropriate
29 committees of the Legislature within 7 calendar days, together
30 with a report by the secretary containing any comments deemed
31 appropriate. Nothing in this section shall be construed to

1 authorize the public disclosure of information which is
2 specifically prohibited from disclosure by any other provision
3 of law.

4 b. Transportation Commission and the Legislature any
5 actions by the secretary that prohibit the inspector general
6 from initiating, carrying out, or completing any audit after
7 the inspector general has decided to initiate, carry out, or
8 complete such audit. The secretary shall, within 30 days
9 after transmission of the report, set forth in a statement to
10 the Transportation Commission and the Legislature the reasons
11 for his or her actions.

12 Section 2. Sections 110.108 and 110.109, Florida
13 Statutes, are repealed.

14 Section 3. Section 110.1091, Florida Statutes, is
15 amended to read:

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

1 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
2 Constitution. This section is subject to the Open Government
3 Sunset Review Act of 1995 in accordance with s. 119.15, and
4 shall stand repealed on October 2, 2003, unless reviewed and
5 saved from repeal through reenactment by the Legislature.

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

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

10 110.1099 Education and training opportunities for
11 state employees.--

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

14 Recognizing that the application of productivity-enhancing
15 technology and practice demands ~~demand~~ continuous educational
16 and training opportunities, a state employee ~~employees~~ may be
17 authorized to receive a voucher or grant, for matriculation
18 fees, fundable tuition waivers on a space-available basis or
19 vouchers to attend work-related courses at public community
20 colleges, public technical centers, or public universities.
21 Student credit hours generated by state employee fee waivers
22 shall be fundable credit hours. The department may implement
23 the provisions of this section from funds appropriated to the
24 department for this purpose. In the event insufficient funds
25 are appropriated to the department, each state agency may
26 supplement these funds to support the training and education
27 needs of its employees from funds appropriated to the agency.

28 (2) The department, in conjunction with the agencies,
29 shall request that public universities ~~such institutions~~
30 provide evening and weekend programs for state employees. When
31 evening and weekend training and educational programs are not

1 available, an employee ~~employees~~ may be authorized to take
2 paid time off during his or her ~~their~~ regular working hours
3 for training and career development, as provided in s.
4 110.105(1), if such training benefits the employer as
5 determined by that employee's agency head.

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

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

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

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

1 attend. An agency or the judicial branch may pay the
2 outstanding balance then due and owing on behalf of a state
3 employee under this subsection in connection with recruitment
4 and hiring of such state employee.

5 (5) The Department of Management Services, in
6 consultation with the agencies and, to the extent applicable,
7 with Florida's public community colleges, public technical
8 centers, and public universities, shall adopt rules to
9 administer this section.

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

12 110.1127 Employee security checks.--

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

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

22 110.113 Pay periods for state officers and employees;
23 salary payments by direct deposit.--

24 (2) As a condition of employment, a person appointed
25 to a position in state government ~~on or after July 1, 1996,~~ is
26 required to participate in the direct deposit program pursuant
27 to s. 17.076. ~~This subsection does not apply to persons who~~
28 ~~are in the employment of the state on July 1, 1996, and~~
29 ~~subsequently receive promotion appointments, transfers, or~~
30 ~~other changes in positions within the same personnel system~~
31 ~~after July 1, 1996.~~ An employee may request an exemption from

1 the provisions of this subsection when such employee can
 2 demonstrate a hardship or when such employee is in an
 3 other-personal-services position.

4 Section 8. Section 110.1245, Florida Statutes, is
 5 amended to read:

6 110.1245 Savings sharing program; bonus payments;
 7 other awards ~~Meritorious service awards program.--~~

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

16 (a) ~~Propose procedures or ideas which are adopted and~~
 17 ~~which will result in increasing productivity, in eliminating~~
 18 ~~or reducing state expenditures or improving operations, or in~~
 19 ~~generating additional revenues, provided such proposals are~~
 20 ~~placed in effect and can be implemented under current~~
 21 ~~statutory authority; or~~

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

30 (c) Each ~~Every~~ state agency, unless otherwise provided
 31 by law, may ~~shall~~ participate in the program. The Chief

1 Justice shall have the authority to establish a savings
2 sharing ~~meritorious service awards~~ program for employees of
3 the judicial branch within the parameters established in this
4 section. The ~~component of the program specified in paragraph~~
5 ~~(a)~~ shall apply to all employees within the Career Service
6 System, the Selected Exempt Service System, and comparable
7 employees within the judicial branch. ~~The component of the~~
8 ~~program specified in paragraph (b) shall apply to all~~
9 ~~employees of the state. No award granted under the component~~
10 ~~of the program described in paragraph (a) shall exceed 10~~
11 ~~percent of the first year's actual savings or actual revenue~~
12 ~~increase, up to \$25,000, plus applicable taxes, unless a~~
13 ~~larger award is made by the Legislature, and shall be paid~~
14 ~~from the appropriation available to the judicial branch or~~
15 ~~state agency affected by the award or from any specific~~
16 ~~appropriation therefor. No award granted under the component~~
17 ~~of the program described in paragraph (b) shall exceed \$1,000~~
18 ~~plus applicable taxes per individual employee. The judicial~~
19 ~~branch or an agency may award savings bonds or other items in~~
20 ~~lieu of cash awards, provided that the cost of such item does~~
21 ~~not exceed the limits specified in this subsection. In~~
22 ~~addition, the judicial branch or a state agency may award~~
23 ~~certificates, pins, plaques, letters of commendation, and~~
24 ~~other tokens of recognition of meritorious service to an~~
25 ~~employee eligible for recognition under either component of~~
26 ~~the program, provided that the award may not cost in excess of~~
27 ~~\$100 each plus applicable taxes.~~

28 (d)(2) The department and the judicial branch shall
29 submit annually to the President of the Senate and the Speaker
30 of the House of Representatives information that outlines each
31 agency's level of participation in the savings sharing

1 ~~meritorious service awards~~ program. The information shall
2 ~~must~~ include, but is not limited to:

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

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

6 3.(c) The actual cost savings realized as a result of
7 implementing employee or group proposals.

8 4. The number of employees or groups recognized for
9 superior accomplishments.

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

12 ~~(e) The number of employees recognized for superior~~
13 ~~accomplishments.~~

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

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

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

26 (b) Eligibility criteria as follows:

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

30

31

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

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

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

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

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

20 (c) A periodic evaluation process of the employee's
21 performance.

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

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

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

31

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

7 (4) Each department head is authorized to incur
8 expenditures to award suitable framed certificates, pins, or
9 other tokens of recognition to state employees who have
10 achieved increments of 5 years of satisfactory service in the
11 agency or to the state, in appreciation and recognition of
12 such service. Such awards may not cost in excess of \$100~~\$50~~
13 each plus applicable taxes.

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

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

24 Section 10. Subsections (1) and (2) of section
25 110.129, Florida Statutes, are amended to read:

26 110.129 Services to political subdivisions.--

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

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

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

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

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

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

1 hired for a project that is identified by a specific
2 appropriation or time-limited grant.

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

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

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

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

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

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

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

29 (22) "Dismissal" means a disciplinary action taken by
30 an agency pursuant to s. 110.227 against an employee resulting

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

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

8 (24) "Layoff" means termination of employment due to
9 abolishment of positions necessitated by a shortage of funds
10 or work, or a material change in the duties or organization of
11 an agency, including the outsourcing or privatization of an
12 activity or function previously performed by career service
13 employees.

14 (28) "Firefighter" means a firefighter certified under
15 chapter 633.

16 (29) "Law enforcement or correctional officer" means a
17 law enforcement officer, special agent, correctional officer,
18 correctional probation officer, or institutional security
19 specialist required to be certified under chapter 943.

20 (30) "Professional health care provider" means
21 registered nurses licensed under chapter 464, dentists
22 licensed under chapter 466, psychologists licensed under
23 chapter 490 or chapter 491, nutritionists or dietitians
24 licensed under part X of chapter 468, pharmacists licensed
25 under chapter 465, psychological specialists licensed under
26 chapter 491, physical therapists licensed under chapter 486,
27 and speech therapists licensed under part I of chapter 468.

28 Section 14. Section 110.2035, Florida Statutes, is
29 created to read:

30 110.2035 Classification and compensation program.--
31

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

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

8 (a) A position classification system using no more
9 than 50 occupational groups and up to a 6-class series
10 structure for each occupation within an occupational group.
11 Additional occupational groups may be established only by the
12 Executive Office of the Governor after consultation with the
13 Legislature.

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

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

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

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

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

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

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

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

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

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

17 (a) Shift differentials.

18 (b) On-call fees.

19 (c) Hazardous-duty pay.

20 (d) Advanced appointment rates.

21 (e) Salary increase and decrease corrections.

22 (f) Lead-worker pay.

23 (g) Temporary special duties pay.

24 (h) Trainer-additive pay.

25 (i) Competitive area differentials.

26 (j) Coordinator pay.

27 (k) Critical market pay.

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

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

10 Section 15. Subsection (2) of section 110.205, Florida
11 Statutes, is amended, and subsection (7) is added to said
12 section, to read:

13 110.205 Career service; exemptions.--

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

20 (a) All officers of the executive branch elected by
21 popular vote and persons appointed to fill vacancies in such
22 offices. Unless otherwise fixed by law, the salary and
23 benefits for any such officer who serves as the head of a
24 department shall be set by the department in accordance with
25 the rules of the Senior Management Service.

26 (b) All members, officers, and employees of the
27 legislative branch, except for the members, officers, and
28 employees of the Florida Public Service Commission.

29 (c) All members, officers, and employees of the
30 judicial branch.

31

1 (d) All officers and employees of the State University
2 System and the Correctional Education Program within the
3 Department of Corrections, and the academic personnel and
4 academic administrative personnel of the Florida School for
5 the Deaf and the Blind. In accordance with the provisions of
6 chapter 242, the salaries for academic personnel and academic
7 administrative personnel of the Florida School for the Deaf
8 and the Blind shall be set by the board of trustees for the
9 school, subject only to the approval of the State Board of
10 Education. The salaries for all instructional personnel and
11 all administrative and noninstructional personnel of the
12 Correctional Education Program shall be set by the Department
13 of Corrections, subject to the approval of the Department of
14 Management Services.

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

20 (f) Judges, referees, and receivers.

21 (g) Patients or inmates in state institutions.

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

30 (i) The appointed secretaries, assistant secretaries,
31 deputy secretaries, and deputy assistant secretaries of all

1 departments; the executive directors, assistant executive
2 directors, deputy executive directors, and deputy assistant
3 executive directors of all departments; and the directors of
4 all divisions and those positions determined by the department
5 to have managerial responsibilities comparable to such
6 positions, which positions include, but are not limited to,
7 program directors, assistant program directors, district
8 administrators, deputy district administrators, the Director
9 of Central Operations Services of the Department of Children
10 and Family Services, and the State Transportation Planner,
11 State Highway Engineer, State Public Transportation
12 Administrator, district secretaries, district directors of
13 planning and programming, production, and operations, and the
14 managers of the offices specified in s. 20.23(3)(d)2., of the
15 Department of Transportation. Unless otherwise fixed by law,
16 the department shall set the salary and benefits of these
17 positions in accordance with the rules of the Senior
18 Management Service.

19 (j) The personal secretary to the incumbent of each
20 position exempted in paragraph (a), and to each appointed
21 secretary, assistant secretary, deputy secretary, executive
22 director, assistant executive director, and deputy executive
23 director of each department under paragraph (i). Unless
24 otherwise fixed by law, the department shall set the salary
25 and benefits of these positions in accordance with the rules
26 of the Selected Exempt Service.

27 (k) All officers and employees in the office of the
28 Governor, including all employees at the Governor's mansion,
29 and employees within each separate budget entity, as defined
30 in chapter 216, assigned to the Governor. Unless otherwise
31

1 fixed by law, the salary and benefits of these positions shall
2 be set by the department as follows:

3 1. The chief of staff, the assistant or deputy chief
4 of staff, general counsel, Director of Legislative Affairs,
5 chief inspector general, Director of Cabinet Affairs, Director
6 of Press Relations, Director of Planning and Budgeting,
7 director of administration, director of state-federal
8 relations, Director of Appointments, Director of External
9 Affairs, Deputy General Counsel, Governor's Liaison for
10 Community Development, Chief of Staff for the Lieutenant
11 Governor, Deputy Director of Planning and Budgeting, policy
12 coordinators, and the director of each separate budget entity
13 shall have their salaries and benefits established by the
14 department in accordance with the rules of the Senior
15 Management Service.

16 2. The salaries and benefits of positions not
17 established in sub-subparagraph a. shall be set by the
18 employing agency. Salaries and benefits of employees whose
19 professional training is comparable to that of licensed
20 professionals under paragraph (q), or whose administrative
21 responsibility is comparable to a bureau chief shall be set by
22 the Selected Exempt Service. The department shall make the
23 comparability determinations. Other employees shall have
24 benefits set comparable to legislative staff, except leave
25 shall be comparable to career service as if career service
26 employees.

27 (1) All assistant division director, deputy division
28 director, and bureau chief positions in any department, and
29 those positions determined by the department to have
30 managerial responsibilities comparable to such positions,
31 which positions include, but are not limited to, positions in

1 the Department of Health, the Department of Children and
2 Family Services, and the Department of Corrections that are
3 assigned primary duties of serving as the superintendent or
4 assistant superintendent, or warden or assistant warden, of an
5 institution; positions in the Department of Corrections that
6 are assigned primary duties of serving as the circuit
7 administrator or deputy circuit administrator; positions in
8 the Department of Transportation that are assigned primary
9 duties of serving as regional toll managers and managers of
10 offices as defined in s. 20.23(3)(d)3. and (4)(d); positions
11 in the Department of Environmental Protection that are
12 assigned the duty of an Environmental Administrator or program
13 administrator; those positions described in s. 20.171 as
14 included in the Senior Management Service; and positions in
15 the Department of Health that are assigned the duties of
16 Environmental Administrator, Assistant County Health
17 Department Director, and County Health Department Financial
18 Administrator. Unless otherwise fixed by law, the department
19 shall set the salary and benefits of these positions in
20 accordance with the rules established for the Selected Exempt
21 Service.

22 (m)1.a. In addition to those positions exempted by
23 other paragraphs of this subsection, each department head may
24 designate a maximum of 20 policymaking or managerial
25 positions, as defined by the department and approved by the
26 Administration Commission, as being exempt from the Career
27 Service System. Career service employees who occupy a position
28 designated as a position in the Selected Exempt Service under
29 this paragraph shall have the right to remain in the Career
30 Service System by opting to serve in a position not exempted
31 by the employing agency. Unless otherwise fixed by law, the

1 department shall set the salary and benefits of these
2 positions in accordance with the rules of the Selected Exempt
3 Service; provided, however, that if the agency head determines
4 that the general counsel, chief Cabinet aide, public
5 information administrator or comparable position for a Cabinet
6 officer, inspector general, or legislative affairs director
7 has both policymaking and managerial responsibilities and if
8 the department determines that any such position has both
9 policymaking and managerial responsibilities, the salary and
10 benefits for each such position shall be established by the
11 department in accordance with the rules of the Senior
12 Management Service.

13 b. In addition, each department may designate one
14 additional position in the Senior Management Service if that
15 position reports directly to the agency head or to a position
16 in the Senior Management Service and if any additional costs
17 are absorbed from the existing budget of that department.

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

27 (n) The executive director, deputy executive director,
28 general counsel, official reporters, and division directors
29 within the Public Service Commission and the personal
30 secretary and personal assistant to each member of the Public
31 Service Commission. Unless otherwise fixed by law, the salary

1 and benefits of the executive director, deputy executive
2 directors, general counsel, Director of Administration,
3 Director of Appeals, Director of Auditing and Financial
4 Analysis, Director of Communications, Director of Consumer
5 Affairs, Director of Electric and Gas, Director of Information
6 Processing, Director of Legal Services, Director of Records
7 and Reporting, Director of Research, and Director of Water and
8 Sewer shall be set by the department in accordance with the
9 rules of the Senior Management Service. The salary and
10 benefits of the personal secretary and the personal assistant
11 of each member of the commission and the official reporters
12 shall be set by the department in accordance with the rules of
13 the Selected Exempt Service, notwithstanding any salary
14 limitations imposed by law for the official reporters.

15 (o)1. All military personnel of the Department of
16 Military Affairs. Unless otherwise fixed by law, the salary
17 and benefits for such military personnel shall be set by the
18 Department of Military Affairs in accordance with the
19 appropriate military pay schedule.

20 2. The military police chiefs, military police
21 officers, firefighter trainers, firefighter-rescuers, and
22 electronic security system technicians shall have salary and
23 benefits the same as career service employees.

24 (p) The staff directors, assistant staff directors,
25 district program managers, district program coordinators,
26 district subdistrict administrators, district administrative
27 services directors, district attorneys, and the Deputy
28 Director of Central Operations Services of the Department of
29 Children and Family Services and the county health department
30 directors and county health department administrators of the
31 Department of Health. Unless otherwise fixed by law, the

1 department shall establish the salary range and benefits for
2 these positions in accordance with the rules of the Selected
3 Exempt Service.

4 (q) All positions not otherwise exempt under this
5 subsection which require as a prerequisite to employment:
6 licensure as a physician pursuant to chapter 458, licensure as
7 an osteopathic physician pursuant to chapter 459, licensure as
8 a chiropractic physician pursuant to chapter 460, including
9 those positions which are occupied by employees who are
10 exempted from licensure pursuant to s. 409.352; licensure as
11 an engineer pursuant to chapter 471, which are supervisory
12 ~~positions except for such positions in the Department of~~
13 ~~Transportation~~; or for 12 calendar months, which require as a
14 prerequisite to employment that the employee have received the
15 degree of Bachelor of Laws or Juris Doctor from a law school
16 accredited by the American Bar Association and thereafter
17 membership in The Florida Bar, except for any attorney who
18 serves as an administrative law judge pursuant to s. 120.65 or
19 for hearings conducted pursuant to s. 120.57(1)(a). Unless
20 otherwise fixed by law, the department shall set the salary
21 and benefits for these positions in accordance with the rules
22 established for the Selected Exempt Service.

23 (r) The statewide prosecutor in charge of the Office
24 of Statewide Prosecution of the Department of Legal Affairs
25 and all employees in the office. The Department of Legal
26 Affairs shall set the salary of these positions.

27 (s) The executive director of each board or commission
28 established within the Department of Business and Professional
29 Regulation or the Department of Health. Unless otherwise fixed
30 by law, the department shall establish the salary and benefits
31

1 for these positions in accordance with the rules established
2 for the Selected Exempt Service.

3 (t) All officers and employees of the State Board of
4 Administration. The State Board of Administration shall set
5 the salaries and benefits of these positions.

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

9 (v) Effective July 1, 2001, managerial employees, as
10 defined in s. 447.203(4), confidential employees, as defined
11 in s. 447.203(5), and supervisory employees who spend the
12 majority of their time communicating with, motivating,
13 training, and evaluating employees, and planning and directing
14 employees' work, and who have the authority to hire, transfer,
15 suspend, lay off, recall, promote, discharge, assign, reward,
16 or discipline subordinate employees or effectively recommend
17 such action, including all employees serving as supervisors,
18 administrators, and directors. Excluded are employees also
19 designated as special risk or special risk administrative
20 support, attorneys who serve as administrative law judges
21 pursuant to s. 120.65 or for hearings conducted pursuant to s.
22 120.57(1)(a). Additionally, registered nurses licensed under
23 chapter 464, dentists licensed under chapter 466,
24 psychologists licensed under chapter 490 or chapter 491,
25 nutritionists or dietitians licensed under part X of chapter
26 468, pharmacists licensed under chapter 465, psychological
27 specialists licensed under chapter 491, physical therapists
28 licensed under chapter 486, and speech therapists licensed
29 under part I of chapter 468 are excluded, unless otherwise
30 collectively bargained.

31

1 (7) CARRYING LEAVE FORWARD.--If an employee is
2 transferred or otherwise moves from the Career Service System
3 into the Selected Exempt Service, all of the employee's unused
4 annual leave, unused sick leave, and unused compensatory leave
5 shall carry forward with the employee.

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

8 Section 17. Section 110.211, Florida Statutes, is
9 amended to read:

10 110.211 Recruitment.--

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

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

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

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

30 ~~(4)(5)~~ All recruitment literature printed after July
31 1, 1979, involving state position vacancies shall contain the

1 phrase "An Equal Opportunity Employer/Affirmative Action
2 Employer."

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

12 Section 18. Section 110.213, Florida Statutes, is
13 amended to read:

14 110.213 Selection.--

15 ~~(1) The department shall have the responsibility for~~
16 ~~determining guidelines for selection procedures to be utilized~~
17 ~~by the employing agencies.~~

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

24 (1)(3) Selection for appointment from among the most
25 qualified candidates available eligibles shall be the sole
26 responsibility of the employing agency. Effective July 1,
27 2001, all new employees must successfully complete at least a
28 1-year probationary period before attainment of permanent
29 status.

30 (2) Selection shall reflect efficiency and simplicity
31 in hiring procedures. The agency head or his or her designee

1 shall be required to document the qualifications of the
2 selected candidate to ensure that the candidate meets the
3 minimum qualifications and possesses the requisite knowledge,
4 skills, and abilities for the position. No other documentation
5 or justification shall be required prior to selecting a
6 candidate for a position.

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

16 Section 19. Effective July 1, 2001, subsection (6) is
17 added to section 110.219, Florida Statutes, and, effective
18 January 1, 2002, subsection (7) is added to said section, to
19 read:

20 110.219 Attendance and leave; general policies.--

21 (6) The leave benefits provided to Senior Management
22 Service employees shall not exceed those provided to employees
23 in the Select Exempt Service.

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

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

30 (b) No permanent career service employee shall receive
31 a payout of greater than 240 hours over the course of the

1 employee's career with the state, including any leave received
2 at the time of separation.

3 Section 20. Section 110.224, Florida Statutes, is
4 amended to read:

5 110.224 Public employee ~~Review and~~ performance
6 evaluation planning system.--A public employee review and
7 performance evaluation planning system shall be established as
8 a basis for evaluating and improving the performance of the
9 state's workforce, ~~to provide documentation in support of~~
10 ~~recommendations for salary increases, promotions, demotions,~~
11 ~~reassignments, or dismissals,~~to inform employees of strong
12 and weak points in the employee's performance, to identify
13 ~~improvements expected, and current and future training needs,~~
14 and to award lump-sum bonuses in accordance with s.
15 110.1245(2), ~~and to assist in determining the order of layoff~~
16 ~~and reemployment.~~

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

27 (2) Each employee must have a ~~employee's~~ performance
28 evaluation must be reviewed at least annually, and the
29 employee must receive an oral and written assessment of his or
30 her performance evaluation. The performance evaluation
31 ~~assessment~~ may include a plan of ~~corrective~~ action for

1 improvement of the employee's performance based on the work
2 expectations or performance standards applicable to the
3 position as determined by the agency head.

4 (3) The department may adopt rules to administer the
5 public employee review and performance evaluation planning
6 system which establish procedures for performance evaluation,
7 ~~procedures to be followed in case of failure to meet~~
8 ~~performance standards~~, review periods, and forms.

9 Section 21. Subsections (2) and (3) of section
10 110.227, Florida Statutes, are amended to read:

11 110.227 Suspensions, dismissals, reductions in pay,
12 demotions, layoffs, transfers, and grievances.--

13 (2) The department shall establish rules and
14 procedures for the suspension, reduction in pay, transfer,
15 layoff, demotion, and dismissal of employees in the career
16 service. Except with regard to law enforcement or correctional
17 officers, firefighters, or professional health care providers,
18 rules regarding layoff procedures shall not include any system
19 whereby a career service employee with greater seniority has
20 the option of selecting a different position not being
21 eliminated, but either vacant or already occupied by an
22 employee of less seniority, and taking that position, commonly
23 referred to as "bumping." For the implementation of layoffs as
24 defined in s. 110.203, the department shall develop rules
25 requiring that consideration be given to comparative merit,
26 demonstrated skills, and the employee's experience. Such rules
27 shall be approved by the Administration Commission prior to
28 their adoption by the department.

29 (3)(a) With regard to law enforcement or correctional
30 officers, firefighters, or professional health care providers,
31 when a layoff becomes necessary, such layoff shall be

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

8 (b) With regard to law enforcement or correctional
9 officers, firefighters, or professional health care providers,
10 layoff procedures shall be developed to establish the relative
11 merit and fitness of employees and shall include a formula for
12 uniform application among all employees in the competitive
13 area, taking into consideration the type of appointment, the
14 length of service, and the evaluations of the employee's
15 performance within the last 5 years of employment.

16 Section 22. Effective July 1, 2001, subsections (1),
17 (4), (5), (6), and (7) of section 110.227, Florida Statutes,
18 are amended to read:

19 110.227 Suspensions, dismissals, reductions in pay,
20 demotions, layoffs, transfers, and grievances.--

21 (1) Any employee who has permanent status in the
22 career service may ~~only~~ be suspended or dismissed only for
23 cause. Cause shall include, but is not ~~be~~ limited to, poor
24 performance, negligence, inefficiency or inability to perform
25 assigned duties, insubordination, willful violation of the
26 provisions of law or agency rules, conduct unbecoming a public
27 employee, misconduct, habitual drug abuse, or conviction of
28 any crime ~~involving moral turpitude~~. The ~~Each~~ agency head
29 shall ensure that all employees of the agency have reasonable
30 access to the agency's personnel manual ~~are completely~~

31

1 ~~familiar with the agency's established procedures on~~
2 ~~disciplinary actions and grievances.~~

3 (4) A grievance process shall be available to
4 permanent career service employees. A grievance is defined as
5 the dissatisfaction that occurs when an employee believes that
6 any condition affecting the employee is unjust, inequitable,
7 or a hinderance to effective operation. Claims of
8 discrimination and sexual harassment or claims related to
9 suspensions, reductions in pay, demotions, and dismissals are
10 not subject to the career service grievance process. The
11 following procedures shall apply to any grievance filed
12 pursuant to this subsection:

13 (a) Step One.--The employee may submit a signed,
14 written grievance on a form provided by the agency to his or
15 her supervisor within 7 calendar days following the occurrence
16 of the event giving rise to the grievance. The supervisor must
17 meet with the employee to discuss the grievance within 5
18 business days following receipt of the grievance.

19 (b) Step Two.--If the employee is dissatisfied with
20 the response of his or her supervisor, the employee may submit
21 the written grievance to the agency head or his or her
22 designee within 2 business days following the meeting with his
23 or her supervisor. The agency head or his or her designee must
24 meet with the employee to discuss the grievance within 5
25 business days following receipt of the grievance. The agency
26 head or his or her designee must respond in writing to the
27 employee within 5 business days following the meeting. The
28 written decision of the agency head shall be the final
29 authority for all grievances filed pursuant to this
30 subsection. Such grievances may not be appealed beyond Step
31 Two.~~Any permanent career service employee subject to~~

1 ~~reduction in pay, transfer, layoff, or demotion from a class~~
2 ~~in which he or she has permanent status in the Career Service~~
3 ~~System shall be notified in writing by the agency prior to its~~
4 ~~taking such action. The notice may be delivered to the~~
5 ~~employee personally or may be sent by certified mail with~~
6 ~~return receipt requested. Such actions shall be appealable to~~
7 ~~the Public Employees Relations Commission, pursuant to s.~~
8 ~~447.208 and rules adopted by the commission.~~

9 (5)(a) A ~~Any~~ permanent career service employee who is
10 subject to a suspension, reduction in pay, demotion, or
11 dismissal shall receive written notice of such action at least
12 10 days prior to the date such action is to be taken.
13 Subsequent to such notice, and prior to the date the action is
14 to be taken, the affected employee shall be given an
15 opportunity to appear before the agency or official taking the
16 action to answer orally and in writing the charges against him
17 or her. The notice to the employee required by this paragraph
18 may be delivered to the employee personally or may be sent by
19 certified mail with return receipt requested. Such actions
20 shall be appealable to the Public Employees Relations
21 Commission as provided in subsection (6). Written notice of
22 any such appeal shall be filed by the employee with the
23 commission within 14 calendar days after the date on which the
24 notice of suspension, reduction in pay, demotion, or dismissal
25 is received by the employee. ~~An employee who is suspended or~~
26 ~~dismissed shall be entitled to a hearing before the Public~~
27 ~~Employees Relations Commission or its designated agent~~
28 ~~pursuant to s. 447.208 and rules adopted by the commission.~~

29 (b) In extraordinary situations such as when the
30 retention of a permanent career service employee would result
31 in damage to state property, would be detrimental to the best

1 interest of the state, or would result in injury to the
2 employee, a fellow employee, or some other person, such
3 employee may be suspended or dismissed without 10 days' prior
4 notice, provided that written or oral notice of such action,
5 evidence of the reasons therefor, and an opportunity to rebut
6 the charges are furnished to the employee prior to such
7 dismissal or suspension. Such notice may be delivered to the
8 employee personally or may be sent by certified mail with
9 return receipt requested. Agency compliance with the foregoing
10 procedure requiring notice, evidence, and an opportunity for
11 rebuttal must be substantiated. Any employee who is suspended
12 or dismissed pursuant to the provisions of this paragraph may
13 appeal to ~~shall be entitled to a hearing before~~ the Public
14 Employees Relations Commission as provided in subsection (6).
15 Written notice of any such appeal shall be filed with the
16 commission by the employee within 14 days after the date on
17 which the notice of suspension, reduction in pay, demotion, or
18 dismissal is received by the employee ~~or its designated agent~~
19 ~~pursuant to s. 447.208, except that such hearing shall be held~~
20 ~~no more than 20 days after the filing of the notice of appeal~~
21 ~~by the employee.~~

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

26 (a) The commission must conduct a hearing within 30
27 calendar days following the filing of a notice of appeal. No
28 extension of time for the hearing may exceed 30 calendar days,
29 absent exceptional circumstances, and no extension of time may
30 be granted without the consent of all parties. Discovery may
31 be granted only upon the showing of extraordinary

1 circumstances. A party requesting discovery shall demonstrate
2 a substantial need for the information requested and an
3 inability to obtain relevant information by other means.
4 Except where inconsistent with the requirements of this
5 subsection, the provisions of s. 447.503(4) and (5) and
6 chapter 120 apply to proceedings held pursuant to this
7 subsection.

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

12 (c) If the commission finds that cause did not exist
13 for the agency action, the commission shall reverse the
14 decision of the agency head and the employee shall be
15 reinstated with or without back pay. If the commission finds
16 that cause existed for the agency action, the commission shall
17 affirm the decision of the agency head. The commission may not
18 reduce the penalty imposed by the agency head, except in the
19 case of law enforcement or correctional officers,
20 firefighters, and professional health care providers, if the
21 commission makes specific written findings of mitigation.

22 (d) A recommended order shall be issued by the hearing
23 officer within 30 days following the hearing. Exceptions to
24 the recommended order shall be filed within 5 business days
25 after the recommended order is issued. The final order shall
26 be filed by the commission no later than 30 calendar days
27 after the hearing or after the filing of exceptions or oral
28 arguments if granted.

29 (e) Final orders issued by the commission pursuant to
30 paragraph (d) shall be reviewable as provided in s. 447.504.
31 ~~grievance process shall be available to career service~~

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

12 (7) Other than for law enforcement or correctional
13 officers, firefighters, and professional health care
14 providers, each suspension, dismissal, demotion, or reduction
15 in pay must be reviewed without consideration of any other
16 case or set of facts.~~The department shall adopt rules for~~
17 ~~administration of the grievance process for career service~~
18 ~~employees. Such rules shall establish agency grievance~~
19 ~~procedures, eligibility, filing deadlines, forms, and review~~
20 ~~and evaluation governing the grievance process.~~

21 Section 23. Paragraph (a) of subsection (4) of section
22 110.233, Florida Statutes, is amended to read:

23 110.233 Political activities and unlawful acts
24 prohibited.--

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

30 (a) Hold, or be a candidate for, public office while
31 in the employment of the state or take any active part in a

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

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

14 110.235 Training.--

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

22 Section 25. Section 110.401, Florida Statutes, is
23 amended to read:

24 110.401 Declaration of policy.--~~It is the intent of~~
25 This part creates ~~to create~~ a uniform system for attracting,
26 retaining, and developing highly competent senior-level
27 managers at the highest executive-management-level agency
28 positions in order for the highly complex programs and
29 agencies of state government to function effectively,
30 efficiently, and productively. The Legislature recognizes that
31 senior-level management is an established profession and that

1 the public interest is best served by developing and refining
2 the management skills of its Senior Management Service
3 employees. Accordingly ~~To this end~~, training and
4 management-development programs are regarded as a major
5 administrative function within agencies.

6 Section 26. Subsections (3), (4), and (5) of section
7 110.403, Florida Statutes, are amended to read:

8 110.403 Powers and duties of the department ~~of~~
9 ~~Management Services~~.--

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

12 (a) To establish and administer a professional
13 development program that ~~which~~ shall provide for the
14 systematic development of managerial, executive, or
15 administrative skills. Such a program shall include the
16 following topics:

17 1. Improving the performance of individual employees.
18 This topic provides skills in understanding and motivating
19 individual performance, providing effective and timely
20 evaluations of employees, and making recommendations on
21 performance incentives and disincentives.

22 2. Improving the performance of groups of employees.
23 This topic provides skills in creating and maintaining
24 productive workgroups and making recommendations on
25 performance incentives and disincentives.

26 3. Relating the efforts of employees to the goals of
27 the organization. This topic provides skills in linking the
28 work of individual employees to the goals of the agency
29 program, service, or activity.

30 4. Strategic planning. This topic provides the skills
31 for defining agency business processes, measuring performance

1 of such processes, and reengineering such processes for
2 improved efficiency and effectiveness.

3 5. Team leadership. This topic provides skills in
4 effective group processes for organizational motivation and
5 productivity based on proven business and military
6 applications that emphasize respect for and courtesy to the
7 public.

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

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

28 (4) All policies and procedures adopted by the
29 department ~~of Management Services~~ regarding the Senior
30 Management Service shall comply with all federal regulations
31

1 necessary to permit the state agencies to be eligible to
2 receive federal funds.

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

11 Section 27. Effective July 1, 2001, paragraph (a) of
12 subsection (1) of section 110.403, Florida Statutes, is
13 amended to read:

14 110.403 Powers and duties of the Department of
15 Management Services.--

16 (1) In order to implement the purposes of this part,
17 the Department of Management Services, after approval by the
18 Administration Commission, shall adopt and amend rules
19 providing for:

20 (a) A system for employing, promoting, or reassigning
21 managers that is responsive to organizational or program
22 needs. In no event shall the number of positions included in
23 the Senior Management Service exceed 1.0 ~~0.5~~ percent of the
24 total full-time equivalent positions in the career service.
25 The department shall deny approval to establish any position
26 within the Senior Management Service which would exceed the
27 limitation established in this paragraph. The department
28 shall report that the limitation has been reached to the
29 Governor, the President of the Senate, and the Speaker of the
30 House of Representatives, as soon as practicable after such
31 event occurs. Employees in the Senior Management Service shall

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

6 Section 28. Section 110.601, Florida Statutes, is
7 amended to read:

8 110.601 Declaration of policy.--~~It is the purpose of~~
9 This part creates ~~to create~~ a system of personnel management
10 the purpose of which is to deliver ~~which ensures to the state~~
11 ~~the delivery of~~ high-quality performance by those employees in
12 select exempt classifications by facilitating the state's
13 ability to attract and retain qualified personnel in these
14 positions, while also providing sufficient management
15 flexibility to ensure that the workforce is responsive to
16 agency needs. The Legislature recognizes that the public
17 interest is best served by developing and refining the
18 technical and managerial skills of its Selected Exempt Service
19 employees, and, to this end, technical training and management
20 development programs are regarded as a major administrative
21 function within agencies.

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

24 110.602 Selected Exempt Service; creation,
25 coverage.--The Selected Exempt Service is created as a
26 separate system of personnel administration for select exempt
27 positions. Such positions shall include, and shall be limited
28 to, those positions which are exempt from the Career Service
29 System pursuant to s. 110.205(2) and (5) and for which the
30 salaries and benefits are set by the department in accordance
31 with the rules of the Selected Exempt Service. The department

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

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

17 110.605 Powers and duties; personnel rules, records,
18 reports, and performance appraisal.--

19 (1) The department shall adopt and administer uniform
20 personnel rules, records, and reports relating to employees
21 and positions in the Selected Exempt Service, as well as any
22 other rules and procedures relating to personnel
23 administration which are necessary to carry out the purposes
24 of this part.

25 (a) The department shall develop uniform forms and
26 instructions to be used in reporting transactions which
27 involve changes in an employee's salary, status, performance,
28 leave, fingerprint record, loyalty oath, payroll change, or
29 appointment action or any additional transactions as the
30 department may deem appropriate.

31

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

4 **(b)(c)** The department shall develop a uniform
5 performance appraisal system for employees and positions in
6 the Selected Exempt Service covered by a collective bargaining
7 agreement. Each employing agency shall develop a performance
8 appraisal system for all other employees and positions in the
9 Selected Exempt System. Such agency system shall take into
10 consideration individual and organizational efficiency,
11 productivity, and effectiveness.

12 **(c)(d)** The employing agency must maintain, on a
13 current basis, all records and reports required by applicable
14 rules.The department shall periodically audit employing
15 agency records to determine compliance with the provisions of
16 this part and the rules of the department.

17 **(d)(e)** The department shall develop a program of
18 affirmative and positive actions that will ensure full
19 utilization of women and minorities in Selected Exempt Service
20 positions.

21 Section 31. Paragraph (c) of subsection (2) of section
22 110.606, Florida Statutes, is amended to read:

23 110.606 Selected Exempt Service; data collection.--

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

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

26 1. A pricing analysis based on a market survey of
27 positions comparable to those included in the Selected Exempt
28 Service and recommendations with respect to whether, and to
29 what extent, revisions to the salary ranges for the Selected
30 Exempt Service classifications should be implemented.

31

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

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

13 288.708 Executive director; employees.--

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

18 Section 33. Paragraph (a) of subsection (3) of section
19 440.4416, Florida Statutes, is amended to read:

20 440.4416 Workers' Compensation Oversight Board.--

21 (3) EXECUTIVE DIRECTOR; EXPENSES.--

22 (a) The board shall appoint an executive director to
23 direct and supervise the administrative affairs and general
24 management of the board who shall be subject to the provisions
25 of part V ~~IV~~ of chapter 110. The executive director may employ
26 persons and obtain technical assistance as authorized by the
27 board and shall attend all meetings of the board. Board
28 employees shall be exempt from part II of chapter 110.

29 Section 34. Notwithstanding section 216.351, Florida
30 Statutes, paragraph (c) of subsection (1) of section 216.262,
31 Florida Statutes, is amended to read:

1 216.262 Authorized positions.--

2 (1)

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

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

25 3.a. A state agency may be eligible to retain salary
26 dollars for authorized positions eliminated after July 1,
27 2001. The agency must certify the eliminated positions to the
28 Legislative Budgeting Commission.

29 b. The Legislative Budgeting Commission shall
30 authorize the agency to retain 20 percent of the salary
31 dollars associated with the eliminated positions and may

1 authorize retention of a greater percentage. All such salary
2 dollars shall be used for permanent salary increases.

3 Section 35. Section 447.201, Florida Statutes, is
4 amended to read:

5 447.201 Statement of policy.--~~It is declared that~~ The
6 public policy of this ~~the~~ state, and the purpose of this part,
7 is to provide statutory implementation of s. 6, Art. I of the
8 State Constitution, with respect to public employees; to
9 promote harmonious and cooperative relationships between
10 government and its employees, both collectively and
11 individually; and to protect the public by assuring, at all
12 times, the orderly and uninterrupted operations and functions
13 of government. ~~It is the intent of the Legislature that~~
14 Nothing herein shall be construed either to encourage or
15 discourage organization of public employees. This state's
16 public policy is ~~These policies are~~ best effectuated by:

17 (1) Granting to public employees the right of
18 organization and representation;

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

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

25 (4) Recognizing the constitutional prohibition against
26 strikes by public employees and providing remedies for
27 violations of such prohibition.

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

31 447.205 Public Employees Relations Commission.--

1 (1) ~~There is hereby created within the Department of~~
2 ~~Labor and Employment Security~~ The Public Employees Relations
3 Commission, hereinafter referred to as the "commission¹." ~~The~~
4 ~~commission~~ shall be composed of a chair and two full-time
5 members to be appointed by the Governor, subject to
6 confirmation by the Senate, from persons representative of the
7 public and known for their objective and independent judgment,
8 who shall not be employed by, or hold any commission with, any
9 governmental unit in the state or any employee organization,
10 as defined in this part, while in such office. In no event
11 shall more than one appointee be a person who, on account of
12 previous vocation, employment, or affiliation, is, or has
13 been, classified as a representative of employers; and in no
14 event shall more than one such appointee be a person who, on
15 account of previous vocation, employment, or affiliation, is,
16 or has been, classified as a representative of employees or
17 employee organizations. The commissioners shall devote full
18 time to commission duties and shall not engage in any other
19 business, vocation, or employment while in such office.
20 Beginning January 1, 1980, the chair shall be appointed for a
21 term of 4 years, one commissioner for a term of 1 year, and
22 one commissioner for a term of 2 years. Thereafter, every term
23 of office shall be for 4 years; and each term of the office of
24 chair shall commence on January 1 of the second year following
25 each regularly scheduled general election at which a Governor
26 is elected to a full term of office. In the event of a
27 vacancy prior to the expiration of a term of office, an
28 appointment shall be made for the unexpired term of that
29 office. The chair shall be responsible for the administrative
30 functions of the commission and shall have the authority to
31 employ such personnel as may be necessary to carry out the

1 provisions of this part. Once appointed to the office of
2 chair, the chair shall serve as chair for the duration of the
3 term of office of chair. Nothing contained herein prohibits a
4 chair or commissioner from serving multiple terms.

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

9 (4) The property, personnel, and appropriations
10 related to the commission's specified authority, powers,
11 duties, and responsibilities shall be provided to the
12 commission by the Department of Management Services ~~Labor and~~
13 ~~Employment Security~~.

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

16 447.207 Commission; powers and duties.--

17 (8) ~~Pursuant to s. 447.208,~~The commission or its
18 designated agent shall hear appeals arising out of any
19 suspension, reduction in pay, ~~transfer, layoff,~~demotion, or
20 dismissal of any permanent employee in the State Career
21 Service System in the manner provided in s. 110.227. ~~Written~~
22 ~~notice of any such appeal shall be filed with the commission~~
23 ~~within 14 calendar days after the date on which the notice of~~
24 ~~suspension, reduction in pay, transfer, layoff, demotion, or~~
25 ~~dismissal is received by the employee.~~

26 Section 38. Section 447.208, Florida Statutes, is
27 amended to read:

28 447.208 Procedure with respect to certain appeals
29 under s. 447.207.--

30 (1) Any person filing an appeal pursuant to ~~subsection~~
31 ~~(8) or~~ subsection (9) of s. 447.207 shall be entitled to a

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

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

17 ~~(3) With respect to hearings relating to demotions,~~
18 ~~suspensions, or dismissals pursuant to the provisions of this~~
19 ~~section:~~

20 ~~(a) Upon a finding that just cause existed for the~~
21 ~~demotion, suspension, or dismissal, the commission shall~~
22 ~~affirm the demotion, suspension, or dismissal.~~

23 ~~(b) Upon a finding that just cause did not exist for~~
24 ~~the demotion, suspension, or dismissal, the commission may~~
25 ~~order the reinstatement of the employee, with or without back~~
26 ~~pay.~~

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

31

1 ~~(d) The commission is limited in its discretionary~~
2 ~~reduction of dismissals and suspensions to consider only the~~
3 ~~following circumstances:~~

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

6 ~~2. Action taken with respect to similar conduct by~~
7 ~~other employees.~~

8 ~~3. The previous employment record and disciplinary~~
9 ~~record of the employee.~~

10 ~~4. Extraordinary circumstances beyond the employee's~~
11 ~~control which temporarily diminished the employee's capacity~~
12 ~~to effectively perform his or her duties or which~~
13 ~~substantially contributed to the violation for which~~
14 ~~punishment is being considered.~~

15
16 ~~The agency may present evidence to refute the existence of~~
17 ~~these circumstances.~~

18 ~~(3)(e)~~ Any order of the commission issued under this
19 section pursuant to this subsection may include back pay, if
20 applicable, and an amount, to be determined by the commission
21 and paid by the agency, for reasonable attorney's fees,
22 witness fees, and other out-of-pocket expenses incurred during
23 the prosecution of an appeal against an agency in which the
24 commission sustains the employee. In determining the amount of
25 an attorney's fee, the commission shall consider only the
26 number of hours reasonably spent on the appeal, comparing the
27 number of hours spent on similar cases ~~Career Service System~~
28 ~~appeals~~ and the reasonable hourly rate charged in the
29 geographic area for similar appeals, but not including
30 litigation over the amount of the attorney's fee. This
31 paragraph applies to future and pending cases.

1 Section 39. Paragraph (a) of subsection (5) of section
2 447.507, Florida Statutes, is amended to read:

3 447.507 Violation of strike prohibition; penalties.--

4 (5) If the commission, after a hearing on notice
5 conducted according to rules promulgated by the commission,
6 determines that an employee has violated s. 447.505, it may
7 order the termination of his or her employment by the public
8 employer. Notwithstanding any other provision of law, a person
9 knowingly violating the provision of said section may,
10 subsequent to such violation, be appointed, reappointed,
11 employed, or reemployed as a public employee, but only upon
12 the following conditions:

13 (a) Such person shall be on probation for a period of
14 18 ~~6~~ months following his or her appointment, reappointment,
15 employment, or reemployment, during which period he or she
16 shall serve without permanent status and at the pleasure of
17 the agency head tenure. ~~During this period, the person may be~~
18 ~~discharged only upon a showing of just cause.~~

19 Section 40. Subsection (13) is added to section
20 112.215, Florida Statutes, to read:

21 112.215 Government employees; deferred compensation
22 program.--

23 (13) When permitted by federal law, the plan
24 administrator may provide for a pretax trustee-to-trustee
25 transfer of amounts in a participant's deferred compensation
26 account for the purchase of prior service credit in a public
27 sector retirement system.

28 Section 41. Effective July 1, 2001, all powers,
29 duties, functions, rules, records, personnel, property, and
30 unexpended balances of appropriations, allocations, and other
31 funds of the Public Employees Relations Commission relating to

1 the commission's specified authority, powers, duties, and
2 responsibilities are transferred by a type one transfer, as
3 defined in section 20.06(1), Florida Statutes, to the
4 Department of Management Services. The independence of the
5 commission in matters relating to the disposition of all
6 cases, including Career Service appeals, shall be preserved.

7 Section 42. The Department of Management Services
8 shall adopt rules as necessary to effectuate the provisions of
9 chapter 110, Florida Statutes, as amended by this act, and in
10 accordance with the authority granted to the department in
11 chapter 110, Florida Statutes. All existing rules relating to
12 chapter 110, Florida Statutes, are statutorily repealed
13 January 1, 2002, unless otherwise readopted.

14 Section 43. Section 110.1315, Florida Statutes, is
15 created to read:

16 110.1315 Alternative benefits; other-personal-services
17 employees.--Upon review and recommendation of the department
18 and approval of the Governor, the department may contract for
19 the implementation of an alternative retirement income
20 security program for eligible temporary and seasonal employees
21 of the state who are compensated from appropriations for other
22 personal services. The contract may provide for a private
23 vendor or vendors to administer the program under a
24 defined-contribution plan under ss. 401(a) and 403(b) or 457
25 of the Internal Revenue Code, and the program must provide
26 retirement benefits as required under s. 3121(b)(7)(F) of the
27 Internal Revenue Code. The department may develop a request
28 for proposals and solicit qualified vendors to compete for the
29 award of the contract. A vendor shall be selected on the basis
30 of the plan that best serves the interest of the participating
31

1 employees and the state. The proposal must comply with all
2 necessary federal and state laws and rules.

3 Section 44. Subsections (1) and (2) of section
4 447.403, Florida Statutes, are amended, and subsection (5) is
5 added to said section, to read:

6 447.403 Resolution of impasses.--

7 (1) If, after a reasonable period of negotiation
8 concerning the terms and conditions of employment to be
9 incorporated in a collective bargaining agreement, a dispute
10 exists between a public employer and a bargaining agent, an
11 impasse shall be deemed to have occurred when one of the
12 parties so declares in writing to the other party and to the
13 commission. When an impasse occurs, the public employer or the
14 bargaining agent, or both parties acting jointly, may appoint,
15 or secure the appointment of, a mediator to assist in the
16 resolution of the impasse. If the Governor is the public
17 employer no mediator shall be appointed.

18 (2)(a) If no mediator is appointed, or upon the
19 request of either party, the commission shall appoint, and
20 submit all unresolved issues to, a special master acceptable
21 to both parties. If the parties are unable to agree on the
22 appointment of a special master, the commission shall appoint,
23 in its discretion, a qualified special master. However, if
24 the parties agree in writing to waive the appointment of a
25 special master, the parties may proceed directly to resolution
26 of the impasse by the legislative body pursuant to paragraph
27 (4)(d). Nothing in this section precludes the parties from
28 using the services of a mediator at any time during the
29 conduct of collective bargaining.

30 (b) If the Governor is the public employer, no special
31 master shall be appointed. The parties may proceed directly to

1 the Legislature for resolution of the impasse pursuant to
2 paragraph (4)(d).

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

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

18 Section 45. Notwithstanding section 216.351, Florida
19 Statutes, subsection (6) of section 216.163, Florida Statutes,
20 is amended to read:

21 216.163 Governor's recommended budget; form and
22 content; declaration of collective bargaining impasses.--

23 (6) At the time the Governor is required to furnish
24 copies of his or her recommended budget to each senator and
25 representative under s. 216.162(1), the Governor shall declare
26 an impasse in all collective bargaining negotiations for which
27 he or she is deemed to be the public employer and for which a
28 collective bargaining agreement has not been executed. ~~Within~~
29 ~~14 days thereafter, the Governor shall furnish the legislative~~
30 ~~appropriations committees with documentation relating to the~~
31 ~~last offer he or she made during such collective bargaining~~

1 ~~negotiations or recommended to a mediator or special master~~
2 ~~appointed to resolve the impasse.~~

3 Section 46. Alternative benefits; tax-sheltered annual
4 leave and sick leave payments and special compensation
5 payments.--

6 (1) The Department of Management Services has
7 authority to adopt tax-sheltered plans under section 401(a) of
8 the Internal Revenue Code for state employees who are eligible
9 for payment for accumulated leave. The department, upon
10 adoption of the plans, shall contract for a private vendor or
11 vendors to administer the plans. These plans shall be limited
12 to state employees who are over age 55 and who are: eligible
13 for accumulated leave and special compensation payments and
14 separating from employment with 10 years of service in
15 accordance with the Internal Revenue Code, or who are
16 participating in the Deferred Retirement Option Program on or
17 after July 1, 2001. The plans must provide benefits in a
18 manner that minimizes the tax liability of the state and
19 participants. The plans must be funded by employer
20 contributions of payments for accumulated leave or special
21 compensation payments, or both, as specified by the
22 department. The plans must have received all necessary federal
23 and state approval as required by law, must not adversely
24 impact the qualified status of the Florida Retirement System
25 defined benefit or defined contribution plans or the pretax
26 benefits program, and must comply with the provisions of
27 section 112.65, Florida Statutes. Adoption of any plan is
28 contingent on: the department receiving appropriate favorable
29 rulings from the Internal Revenue Service; the department
30 negotiating under the provisions of chapter 447, Florida
31 Statutes, where applicable; and the Comptroller making

1 appropriate changes to the state payroll system. The
2 department's request for proposals by vendors for such plans
3 may require that the vendors provide market-risk or volatility
4 ratings from recognized rating agencies for each of their
5 investment products. The department shall provide for a system
6 of continuous quality assurance oversight to ensure that the
7 program objectives are achieved and that the program is
8 prudently managed.

9 (2) Within 30 days after termination of employment, an
10 employee may elect to withdraw the moneys without penalty by
11 the plan administrator. If any employee is adversely affected
12 by payment of an excise tax or any Internal Revenue Service
13 penalty by electing to withdraw funds within 30 days, the plan
14 shall include a provision which will provide the employee with
15 no less cash than if the employee had not participated in the
16 plan.

17 (3) These contracts may be used by any other pay plans
18 or personnel systems in the executive, legislative, or
19 judicial branches of government upon approval of the
20 appropriate administrative authority.

21 (4) Notwithstanding the terminal pay provisions of s.
22 110.122, Florida Statutes, the department may contract for a
23 tax-sheltered plan for leave and special compensation pay for
24 employees terminating over age 55 with 10 years of service and
25 for employees participating in the Deferred Retirement Option
26 Program on or after July 1, 2001, and who are over age 55. The
27 frequency of payments into the plan shall be determined by the
28 department or as provided in the General Appropriations Act.
29 This plan or plans shall provide the greatest tax benefits to
30 the employees and maximize the savings to the state.

31

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

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

6 Section 47. Career Service Advisory Group.--

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

11 (a) Two members selected by the Governor.

12 (b) One member selected by the President of the
13 Senate.

14 (c) One member selected by the Speaker of the House of
15 Representatives.

16
17 The selections provided for by this subsection shall be made
18 on or before July 1, 2001. The group shall expire on January
19 1, 2002.

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

23 (3) The group shall be considered advisory and shall
24 provide advice to the Department of Management Services and
25 the Executive Office of the Governor on issues presented to it
26 related to the implementation of this act. The Department of
27 Management Services shall provide to the board copies of any
28 rules proposed to implement this act.

29 Section 48. There is hereby appropriated for fiscal
30 year 2001-2002 to Administered Funds the lump sum of \$7.4
31 million from the General Revenue Fund and \$14 million from

1 trust funds to fund the benefits to employees transferred from
2 Career Service to Selected Exempt Service pursuant to the
3 provisions of this act. This appropriation to Administered
4 Funds shall be processed in the same manner as if it had been
5 made in the General Appropriations Act.

6 Section 49. If any provision of this act or its
7 application to any particular person or circumstance is held
8 invalid, that provision or its application shall be deemed
9 severable and shall not affect the validity of other
10 provisions or applications of this act.

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

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