

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

ORIGINAL STAMP BELOW

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Representative(s) Ross and Alexander offered the following:

**Amendment (with title amendment)**

On page 4, between lines 2 & 3 of the bill

insert:

Section 3. Paragraphs (b), (c), and (d) of subsection (14) of section 440.02, Florida Statutes, are amended, and subsections (40) and (41) are added to that section, to read:

440.02 Definitions.--When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(14)

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively

1 engaged in the construction industry, no more than three  
2 officers may elect to be exempt from this chapter by filing  
3 written notice of the election with the division as provided  
4 in s. 440.05. However, any exemption obtained by a corporate  
5 officer of a corporation actively engaged in the construction  
6 industry is not applicable with respect to any commercial  
7 building project estimated to be valued at \$250,000 or  
8 greater.

9 3. An officer of a corporation who elects to be exempt  
10 from this chapter by filing a written notice of the election  
11 with the division as provided in s. 440.05 is not an employee.

12  
13 Services are presumed to have been rendered to the corporation  
14 if the officer is compensated by other than dividends upon  
15 shares of stock of the corporation which the officer owns.

16 (c)1. "Employee" includes a sole proprietor or a  
17 partner who devotes full time to the proprietorship or  
18 partnership and, except as provided in this paragraph, elects  
19 to be included in the definition of employee by filing notice  
20 thereof as provided in s. 440.05. Partners or sole proprietors  
21 actively engaged in the construction industry are considered  
22 employees unless they elect to be excluded from the definition  
23 of employee by filing written notice of the election with the  
24 division as provided in s. 440.05. However, no more than three  
25 partners in a partnership that is actively engaged in the  
26 construction industry may elect to be excluded. A sole  
27 proprietor or partner who is actively engaged in the  
28 construction industry and who elects to be exempt from this  
29 chapter by filing a written notice of the election with the  
30 division as provided in s. 440.05 is not an employee. For  
31 purposes of this chapter, an independent contractor is an

1 employee unless he or she meets all of the conditions set  
2 forth in subparagraph (d)1.

3 2. Notwithstanding the provisions of subparagraph 1.,  
4 the term "employee" includes a sole proprietor or partner  
5 actively engaged in the construction industry with respect to  
6 any commercial building project estimated to be valued at  
7 \$250,000 or greater. Any exemption obtained is not applicable,  
8 with respect to work performed at such a commercial building  
9 project.

10 (d) "Employee" does not include:

11 1. An independent contractor, if:

12 a. The independent contractor maintains a separate  
13 business with his or her own work facility, truck, equipment,  
14 materials, or similar accommodations;

15 b. The independent contractor holds or has applied for  
16 a federal employer identification number, unless the  
17 independent contractor is a sole proprietor who is not  
18 required to obtain a federal employer identification number  
19 under state or federal requirements;

20 c. The independent contractor performs or agrees to  
21 perform specific services or work for specific amounts of  
22 money and controls the means of performing the services or  
23 work;

24 d. The independent contractor incurs the principal  
25 expenses related to the service or work that he or she  
26 performs or agrees to perform;

27 e. The independent contractor is responsible for the  
28 satisfactory completion of work or services that he or she  
29 performs or agrees to perform and is or could be held liable  
30 for a failure to complete the work or services;

31 f. The independent contractor receives compensation

1 for work or services performed for a commission or on a  
2 per-job or competitive-bid basis and not on any other basis;

3 g. The independent contractor may realize a profit or  
4 suffer a loss in connection with performing work or services;

5 h. The independent contractor has continuing or  
6 recurring business liabilities or obligations; and

7 i. The success or failure of the independent  
8 contractor's business depends on the relationship of business  
9 receipts to expenditures.

10

11 However, the determination as to whether an individual  
12 included in the Standard Industrial Classification Manual of  
13 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,  
14 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,  
15 2448, or 2449, or a newspaper delivery person, is an  
16 independent contractor is governed not by the criteria in this  
17 paragraph but by common-law principles, giving due  
18 consideration to the business activity of the individual.

19 Notwithstanding the provisions of this paragraph or any other  
20 provision of this chapter, with respect to any commercial  
21 building project estimated to be valued at \$250,000 or  
22 greater, a person who is actively engaged in the construction  
23 industry is not an independent contractor and is either an  
24 employer or an employee who may not be exempt from the  
25 coverage requirements of this chapter.

26 2. A real estate salesperson or agent, if that person  
27 agrees, in writing, to perform for remuneration solely by way  
28 of commission.

29 3. Bands, orchestras, and musical and theatrical  
30 performers, including disk jockeys, performing in licensed  
31 premises as defined in chapter 562, if a written contract

1 evidencing an independent contractor relationship is entered  
2 into before the commencement of such entertainment.

3           4. An owner-operator of a motor vehicle who transports  
4 property under a written contract with a motor carrier which  
5 evidences a relationship by which the owner-operator assumes  
6 the responsibility of an employer for the performance of the  
7 contract, if the owner-operator is required to furnish the  
8 necessary motor vehicle equipment and all costs incidental to  
9 the performance of the contract, including, but not limited  
10 to, fuel, taxes, licenses, repairs, and hired help; and the  
11 owner-operator is paid a commission for transportation service  
12 and is not paid by the hour or on some other time-measured  
13 basis.

14           5. A person whose employment is both casual and not in  
15 the course of the trade, business, profession, or occupation  
16 of the employer.

17           6. A volunteer, except a volunteer worker for the  
18 state or a county, municipality, or other governmental entity.  
19 A person who does not receive monetary remuneration for  
20 services is presumed to be a volunteer unless there is  
21 substantial evidence that a valuable consideration was  
22 intended by both employer and employee. For purposes of this  
23 chapter, the term "volunteer" includes, but is not limited to:

24           a. Persons who serve in private nonprofit agencies and  
25 who receive no compensation other than expenses in an amount  
26 less than or equivalent to the standard mileage and per diem  
27 expenses provided to salaried employees in the same agency or,  
28 if such agency does not have salaried employees who receive  
29 mileage and per diem, then such volunteers who receive no  
30 compensation other than expenses in an amount less than or  
31 equivalent to the customary mileage and per diem paid to

1 salaried workers in the community as determined by the  
2 division; and

3           b. Volunteers participating in federal programs  
4 established under Pub. L. No. 93-113.

5           7. Any officer of a corporation who elects to be  
6 exempt from this chapter.

7           8. A sole proprietor or officer of a corporation who  
8 actively engages in the construction industry, and a partner  
9 in a partnership that is actively engaged in the construction  
10 industry, who elects to be exempt from the provisions of this  
11 chapter. Such sole proprietor, officer, or partner is not an  
12 employee for any reason until the notice of revocation of  
13 election filed pursuant to s. 440.05 is effective.

14           9. An exercise rider who does not work for a single  
15 horse farm or breeder, and who is compensated for riding on a  
16 case-by-case basis, provided a written contract is entered  
17 into prior to the commencement of such activity which  
18 evidences that an employee/employer relationship does not  
19 exist.

20           10. A taxicab, limousine, or other passenger  
21 vehicle-for-hire driver who operates said vehicles pursuant to  
22 a written agreement with a company which provides any  
23 dispatch, marketing, insurance, communications, or other  
24 services under which the driver and any fees or charges paid  
25 by the driver to the company for such services are not  
26 conditioned upon, or expressed as a proportion of, fare  
27 revenues.

28           11. A person who performs services as a sports  
29 official for an entity sponsoring an interscholastic sports  
30 event or for a public entity or private, nonprofit  
31 organization that sponsors an amateur sports event. For

1 purposes of this subparagraph, such a person is an independent  
2 contractor. For purposes of this subparagraph, the term  
3 "sports official" means any person who is a neutral  
4 participant in a sports event, including, but not limited to,  
5 umpires, referees, judges, linespersons, scorekeepers, or  
6 timekeepers. This subparagraph does not apply to any person  
7 employed by a district school board who serves as a sports  
8 official as required by the employing school board or who  
9 serves as a sports official as part of his or her  
10 responsibilities during normal school hours.

11 (40) "Commercial building" means any building or  
12 structure intended for commercial or industrial use, or any  
13 building or structure intended for multifamily use of more  
14 than four dwelling units, as well as any accessory use  
15 structures constructed in conjunction with the principle  
16 structure. The term, "commercial building," does not include  
17 the conversion of any existing residential building to a  
18 commercial building.

19 (41) "Residential building" means any building or  
20 structure intended for residential use containing four or  
21 fewer dwelling units and any structures intended as an  
22 accessory use to the residential structure.

23 Section 4. Subsections (10), (11), (12), and (13) are  
24 added to section 440.05, Florida Statutes, to read:

25 440.05 Election of exemption; revocation of election;  
26 notice; certification.--

27 (10) Each sole proprietor, partner, or officer of a  
28 corporation who is actively engaged in the construction  
29 industry and who elects an exemption from this chapter shall  
30 maintain business records as specified by the division by  
31 rule, which rules must include the provision that any

1 corporation with exempt officers and any partnership actively  
2 engaged in the construction industry with exempt partners must  
3 maintain written statements of those exempted persons  
4 affirmatively acknowledging each such individual's exempt  
5 status.

6 (11) Any sole proprietor or partner actively engaged  
7 in the construction industry claiming an exemption under this  
8 section shall maintain a copy of his or her federal income tax  
9 records for each of the immediately previous 3 years in which  
10 he or she claims an exemption. Such federal income tax records  
11 must include a complete copy of the following for each year in  
12 which an exemption is claimed:

13 (a) For sole proprietors, a copy of Federal Income Tax  
14 Form 1040 and its accompanying Schedule C;

15 (b) For partners, a copy of the partner's Federal  
16 Income Tax Schedule K-1 (Form 1065) and Federal Income Tax  
17 Form 1040 and its accompanying Schedule E.

18  
19 A sole proprietor or partner shall produce, upon request by  
20 the division, a copy of those documents together with a  
21 statement by the sole proprietor or partner that the tax  
22 records provided are true and accurate copies of what the sole  
23 proprietor or partner has filed with the federal Internal  
24 Revenue Service. The statement must be signed under oath by  
25 the sole proprietor or partner and must be notarized. The  
26 division shall issue a stop-work order under s. 440.107(5) to  
27 any sole proprietor or partner who fails or refuses to produce  
28 a copy of the tax records and affidavit required under this  
29 paragraph to the division within 3 business days after the  
30 request is made.

31 (12) For those sole proprietors or partners that have



1 not been in business long enough to provide the information  
2 required of an established business, the division shall  
3 require such sole proprietor or partner to provide copies of  
4 the most recently filed Federal Income Tax Form 1040. The  
5 division shall establish by rule such other criteria to show  
6 that the sole proprietor or partner intends to engage in a  
7 legitimate enterprise within the construction industry and is  
8 not otherwise attempting to evade the requirements of this  
9 section. The division shall establish by rule the form and  
10 format of financial information required to be submitted by  
11 such employers.

12 (13) Any corporate officer claiming an exemption under  
13 this section must be listed on the records of this state's  
14 Secretary of State, Division of Corporations, as a corporate  
15 officer. If the person who claims an exemption as a corporate  
16 officer is not so listed on the records of the Secretary of  
17 State, the individual must provide to the division, upon  
18 request by the division, a notarized affidavit stating that  
19 the individual is a bona fide officer of the corporation and  
20 stating the date his or her appointment or election as a  
21 corporate officer became or will become effective. The  
22 statement must be signed under oath by both the officer and  
23 the president or chief operating officer of the corporation  
24 and must be notarized. The division shall issue a stop-work  
25 order under s. 440.107(1) to any corporation who employs a  
26 person who claims to be exempt as a corporate officer but who  
27 fails or refuses to produce the documents required under this  
28 subsection to the division within 3 business days after the  
29 request is made.

30 Section 5. Subsection (1) of section 440.10, Florida  
31 Statutes, is amended to read:

1           440.10 Liability for compensation.--

2           (1)(a) Every employer coming within the provisions of  
3 this chapter, including any brought within the chapter by  
4 waiver of exclusion or of exemption, shall be liable for, and  
5 shall secure, the payment to his or her employees, or any  
6 physician, surgeon, or pharmacist providing services under the  
7 provisions of s. 440.13, of the compensation payable under ss.  
8 440.13, 440.15, and 440.16. Any contractor or subcontractor  
9 who engages in any public or private construction in the state  
10 shall secure and maintain compensation for his or her  
11 employees under this chapter as provided in s. 440.38.

12           (b) In case a contractor sublets any part or parts of  
13 his or her contract work to a subcontractor or subcontractors,  
14 all of the employees of such contractor and subcontractor or  
15 subcontractors engaged on such contract work shall be deemed  
16 to be employed in one and the same business or establishment;  
17 and the contractor shall be liable for, and shall secure, the  
18 payment of compensation to all such employees, except to  
19 employees of a subcontractor who has secured such payment.

20           (c) A contractor may require a subcontractor to  
21 provide evidence of workers' compensation insurance or a copy  
22 of his or her certificate of election. A subcontractor  
23 electing to be exempt as a sole proprietor, partner, or  
24 officer of a corporation shall provide a copy of his or her  
25 certificate of election to the contractor.

26           (d)1. If a contractor becomes liable for the payment  
27 of compensation to the employees of a subcontractor who has  
28 failed to secure such payment in violation of s. 440.38, the  
29 contractor or other third-party payor shall be entitled to  
30 recover from the subcontractor all benefits paid or payable  
31 plus interest unless the contractor and subcontractor have

1 agreed in writing that the contractor will provide coverage.

2           2. If a contractor or third-party payor becomes liable  
3 for the payment of compensation to the employee of a  
4 subcontractor who is actively engaged in the construction  
5 industry and has elected to be exempt from the provisions of  
6 this chapter, but whose election is invalid, the contractor or  
7 third-party payor may recover from the claimant, partnership,  
8 or corporation all benefits paid or payable plus interest,  
9 unless the contractor and the subcontractor have agreed in  
10 writing that the contractor will provide coverage.

11           (e) A subcontractor is not liable for the payment of  
12 compensation to the employees of another subcontractor on such  
13 contract work and is not protected by the  
14 exclusiveness-of-liability provisions of s. 440.11 from action  
15 at law or in admiralty on account of injury of such employee  
16 of another subcontractor.

17           (f) If an employer ~~willfully~~ fails to secure  
18 compensation as required by this chapter, the division may  
19 assess against the employer a penalty not to exceed \$5,000 for  
20 each employee of that employer who is classified by the  
21 employer as an independent contractor but who is found by the  
22 division to not meet the criteria for an independent  
23 contractor that are set forth in s. 440.02. The division shall  
24 adopt rules to administer the provisions of this paragraph.

25           (g) For purposes of this section, a person is  
26 conclusively presumed to be an independent contractor if:

27           1. The independent contractor provides the general  
28 contractor with an affidavit stating that he or she meets all  
29 the requirements of s. 440.02(14)(d); and

30           2. The independent contractor provides the general  
31 contractor with a valid certificate of workers' compensation

1 insurance or a valid certificate of exemption issued by the  
2 division.

3  
4 A sole proprietor, partner, or officer of a corporation who  
5 elects exemption from this chapter by filing a certificate of  
6 election under s. 440.05 may not recover benefits or  
7 compensation under this chapter. An independent contractor who  
8 provides the general contractor with both an affidavit stating  
9 that he or she meets the requirements of s. 440.02(14)(d) and  
10 a certificate of exemption is not an employee under s.  
11 440.02(14)(c) and may not recover benefits under this chapter.  
12 For purposes of determining the appropriate premium for  
13 workers' compensation coverage, carriers may not consider any  
14 person who meets the requirements of this paragraph to be an  
15 employee.

16 Section 6. Subsections (5) and (7) of section 440.107,  
17 Florida Statutes, are amended, and subsection (12) is added to  
18 that section to read:

19 440.107 Division powers to enforce employer compliance  
20 with coverage requirements.--

21 (5) Whenever the division determines that an employer  
22 who is required to secure the payment to his or her employees  
23 of the compensation provided for by this chapter has failed to  
24 do so, such failure shall be deemed an immediate serious  
25 danger to public health, safety, or welfare sufficient to  
26 justify service by the division of a stop-work order on the  
27 employer, requiring the cessation of all business operations  
28 at the place of employment or job site. If the division makes  
29 such a determination, the division shall issue a stop-work  
30 order within 72 hours.The order shall take effect upon the  
31 date of service upon the employer, unless the employer

1 provides evidence satisfactory to the division of having  
2 secured any necessary insurance or self-insurance and pays a  
3 civil penalty to the division, to be deposited by the division  
4 into the Workers' Compensation Administration Trust Fund, in  
5 the amount of \$100 per day for each day the employer was not  
6 in compliance with this chapter.

7 (7) In addition to any penalty, stop-work order, or  
8 injunction, the division shall ~~may~~ assess against any  
9 employer, who has failed to secure the payment of compensation  
10 as required by this chapter, a penalty in the following amount  
11 of:

12 (a) An amount equal to at least the amount that the  
13 employer would have paid or up to twice the amount the  
14 employer would have paid during periods it illegally failed to  
15 secure payment of compensation in the preceding 3-year period  
16 based on the employer's payroll during the preceding 3-year  
17 period; or

18 (b) One thousand dollars, whichever is greater.

19  
20 Any penalty assessed under this subsection is due within 30  
21 days after the date on which the employer is notified, except  
22 that, if the division has posted a stop-work order or obtained  
23 injunctive relief against the employer, payment is due, in  
24 addition to those conditions set forth in this section, as a  
25 condition to relief from a stop-work order or an injunction.  
26 Interest shall accrue on amounts not paid when due at the rate  
27 of 1 percent per month. The division shall adopt rules to  
28 administer this section.

29 (12) If the division finds that an employer who is  
30 certified or registered under part I or part II of chapter 489  
31 and who is required to secure payment of the compensation

1 provided for by this chapter to his or her employees has  
2 failed to do so, the division shall immediately notify the  
3 Department of Business and Professional Regulation.

4 Section 7. Subsection (12) and paragraph (b) of  
5 subsection (14) of section 440.13, Florida Statutes, are  
6 amended to read:

7 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
8 REIMBURSEMENT ALLOWANCES.--

9 (a) A three-member panel is created, consisting of the  
10 Insurance Commissioner, or the Insurance Commissioner's  
11 designee, and two members to be appointed by the Governor,  
12 subject to confirmation by the Senate, one member who, on  
13 account of present or previous vocation, employment, or  
14 affiliation, shall be classified as a representative of  
15 employers, the other member who, on account of previous  
16 vocation, employment, or affiliation, shall be classified as a  
17 representative of employees. The panel shall determine  
18 statewide schedules of maximum reimbursement allowances for  
19 medically necessary treatment, care, and attendance provided  
20 by physicians, hospitals, ambulatory surgical centers,  
21 work-hardening programs, pain programs, and durable medical  
22 equipment. The maximum reimbursement allowances for inpatient  
23 hospital care shall be based on a schedule of per diem rates,  
24 to be approved by the three-member panel no later than March  
25 1, 1994, to be used in conjunction with a precertification  
26 manual as determined by the division. All compensable charges  
27 for hospital outpatient care shall be reimbursed at 75 percent  
28 of usual and customary charges. Until the three-member panel  
29 approves a schedule of per diem rates for inpatient hospital  
30 care and it becomes effective, all compensable charges for  
31 hospital inpatient care must be reimbursed at 75 percent of

1 their usual and customary charges. Annually, the three-member  
2 panel shall adopt schedules of maximum reimbursement  
3 allowances for physicians, hospital inpatient care, hospital  
4 outpatient care, ambulatory surgical centers, work-hardening  
5 programs, and pain programs. However, the maximum percentage  
6 of increase in the individual reimbursement allowance may not  
7 exceed the percentage of increase in the Consumer Price Index  
8 for the previous year. An individual physician, hospital,  
9 ambulatory surgical center, pain program, or work-hardening  
10 program shall be reimbursed either the usual and customary  
11 charge for treatment, care, and attendance, the agreed-upon  
12 contract price, or the maximum reimbursement allowance in the  
13 appropriate schedule, whichever is less.

14 (b) As to reimbursement for a prescription medication,  
15 the reimbursement amount for a prescription shall be the  
16 average wholesale price times 1.2 plus \$4.18 for the  
17 dispensing fee, except where the carrier has contracted for a  
18 lower amount. Fees for pharmaceuticals and pharmaceutical  
19 services shall be reimbursable at the applicable fee schedule  
20 amount. Where the employer or carrier has contracted for such  
21 services and the employee elects to obtain them through a  
22 provider not a party to the contract, the carrier shall  
23 reimburse at the schedule, negotiated, or contract price,  
24 whichever is lower.

25 (c) Reimbursement for all fees and other charges for  
26 such treatment, care, and attendance, including treatment,  
27 care, and attendance provided by any hospital or other health  
28 care provider, ambulatory surgical center, work-hardening  
29 program, or pain program, must not exceed the amounts provided  
30 by the uniform schedule of maximum reimbursement allowances as  
31 determined by the panel or as otherwise provided in this

1 section. This subsection also applies to independent medical  
2 examinations performed by health care providers under this  
3 chapter. Until the three-member panel approves a uniform  
4 schedule of maximum reimbursement allowances and it becomes  
5 effective, all compensable charges for treatment, care, and  
6 attendance provided by physicians, ambulatory surgical  
7 centers, work-hardening programs, or pain programs shall be  
8 reimbursed at the lowest maximum reimbursement allowance  
9 across all 1992 schedules of maximum reimbursement allowances  
10 for the services provided regardless of the place of service.  
11 In determining the uniform schedule, the panel shall first  
12 approve the data which it finds representative of prevailing  
13 charges in the state for similar treatment, care, and  
14 attendance of injured persons. Each health care provider,  
15 health care facility, ambulatory surgical center,  
16 work-hardening program, or pain program receiving workers'  
17 compensation payments shall maintain records verifying their  
18 usual charges. In establishing the uniform schedule of maximum  
19 reimbursement allowances, the panel must consider:

20 1. The levels of reimbursement for similar treatment,  
21 care, and attendance made by other health care programs or  
22 third-party providers;

23 2. The impact upon cost to employers for providing a  
24 level of reimbursement for treatment, care, and attendance  
25 which will ensure the availability of treatment, care, and  
26 attendance required by injured workers;

27 3. The financial impact of the reimbursement  
28 allowances upon health care providers and health care  
29 facilities, including trauma centers as defined in s.  
30 395.4001, and its effect upon their ability to make available  
31 to injured workers such medically necessary remedial



1 treatment, care, and attendance. The uniform schedule of  
2 maximum reimbursement allowances must be reasonable, must  
3 promote health care cost containment and efficiency with  
4 respect to the workers' compensation health care delivery  
5 system, and must be sufficient to ensure availability of such  
6 medically necessary remedial treatment, care, and attendance  
7 to injured workers; and

8 4. The most recent average maximum allowable rate of  
9 increase for hospitals determined by the Health Care Board  
10 under chapter 408.

11 (d) In addition to establishing the uniform schedule  
12 of maximum reimbursement allowances, the panel shall:

13 1. Take testimony, receive records, and collect data  
14 to evaluate the adequacy of the workers' compensation fee  
15 schedule, nationally recognized fee schedules and alternative  
16 methods of reimbursement to certified health care providers  
17 and health care facilities for inpatient and outpatient  
18 treatment and care.

19 2. Survey certified health care providers and health  
20 care facilities to determine the availability and  
21 accessibility of workers' compensation health care delivery  
22 systems for injured workers.

23 3. Survey carriers to determine the estimated impact  
24 on carrier costs and workers' compensation premium rates by  
25 implementing changes to the carrier reimbursement schedule or  
26 implementing alternative reimbursement methods.

27 4. Submit recommendations on or before January 1,  
28 2003, and biennially thereafter, to the President of the  
29 Senate and the Speaker of the House of Representatives on  
30 methods to improve the workers' compensation health care  
31 delivery system.

1  
2 The division shall provide data to the panel, including but  
3 not limited to utilization trends in the workers' compensation  
4 health care delivery system. The division shall provide the  
5 panel with an annual report regarding the resolution of  
6 medical reimbursement disputes and any actions pursuant to s.  
7 440.13(8). The division shall provide administrative support  
8 and service to the panel to the extent requested by the panel.

9 (14) PAYMENT OF MEDICAL FEES.--

10 (b) Fees charged for remedial treatment, care, and  
11 attendance, except for independent medical examinations, may  
12 not exceed the applicable fee schedules adopted under this  
13 chapter.

14 Section 8. Paragraph (a) of subsection (2) of section  
15 440.134, Florida Statutes, is amended to read:

16 440.134 Workers' compensation managed care  
17 arrangement.--

18 (2)(a) The self-insured employer or carrier may,  
19 subject to the terms and limitations specified elsewhere in  
20 this section and chapter, furnish to the employee solely  
21 through managed care arrangements such medically necessary  
22 remedial treatment, care, and attendance for such period as  
23 the nature of the injury or the process of recovery requires.  
24 For any self-insured employer or carrier who elects to deliver  
25 the medical benefits required by this chapter through a method  
26 other than a workers' compensation managed care arrangement,  
27 the discontinuance of the use of the workers' compensation  
28 managed care arrangement shall be without regard to the date  
29 of the accident, notwithstanding any other provision of law or  
30 rule.

31 Section 9. Section 440.191, Florida Statutes, is

1 amended to read:

2 440.191 Employee Assistance and Ombudsman Office.--

3 (1)(a) In order to effect the self-executing features  
4 of the Workers' Compensation Law, this chapter shall be  
5 construed to permit injured employees and employers or the  
6 employer's carrier to resolve disagreements without undue  
7 expense, costly litigation, or delay in the provisions of  
8 benefits. It is the duty of all who participate in the  
9 workers' compensation system, including, but not limited to,  
10 carriers, service providers, health care providers, attorneys,  
11 employers, managed care arrangements, and employees, to  
12 attempt to resolve disagreements in good faith and to  
13 cooperate with the division's efforts to resolve disagreements  
14 between the parties. The division may by rule prescribe  
15 definitions that are necessary for the effective  
16 administration of this section.

17 (b) An Employee Assistance and Ombudsman Office is  
18 created within the Division of Workers' Compensation to inform  
19 and assist injured workers, employers, carriers, ~~and~~ health  
20 care providers, and managed care arrangements in fulfilling  
21 their responsibilities under this chapter. The division may by  
22 rule specify forms and procedures for administering ~~requests~~  
23 ~~for assistance provided by~~ this section.

24 (c) The Employee Assistance and Ombudsman Office,  
25 Division of Workers' Compensation, shall be a resource  
26 available to all employees who participate in the workers'  
27 compensation system and shall take all steps necessary to  
28 educate and disseminate information to employees and  
29 employers. Upon receiving a notice of injury or death, the  
30 Employee Assistance and Ombudsman Office may initiate contact  
31 with the injured employee or employee's representative to

1 discuss rights and responsibilities of the employee under this  
2 chapter and the services available through the Employee  
3 Assistance and Ombudsman Office.

4 ~~(2)(a) An employee may not file a petition requesting~~  
5 ~~any benefit under this chapter unless the employee has~~  
6 ~~exhausted the procedures for informal dispute resolution under~~  
7 ~~this section.~~

8 (a)(b) If at any time the employer or its carrier  
9 fails to provide benefits to which the employee believes she  
10 or he is entitled, the employee shall contact the office to  
11 request assistance in resolving the dispute. The office may  
12 review a petition for benefits filed under s. 440.192 shall  
13 ~~investigate the dispute and may shall~~ attempt to facilitate an  
14 agreement between the employee and the employer or carrier.  
15 The employee, the employer, and the carrier shall cooperate  
16 with the office and shall timely provide the office with any  
17 documents or other information that it may require in  
18 connection with its efforts under this section.

19 (b)(c) The office may compel parties to attend  
20 conferences in person or by telephone in an attempt to resolve  
21 disputes quickly and in the most efficient manner possible.  
22 Settlement agreements resulting from such conferences must be  
23 submitted to the Office of the Judges of Compensation Claims  
24 for approval.

25 (c)(d) The Employee Assistance and Ombudsman Office  
26 may assign an ombudsman to assist the employee in resolving  
27 the dispute. ~~if the dispute is not resolved within 30 days~~  
28 ~~after the employee contacts the office, The ombudsman may~~  
29 ~~shall~~, at the employee's request, assist the employee in  
30 drafting a petition for benefits and explain the procedures  
31 for filing petitions. ~~The division may by rule determine the~~

1 ~~method used to calculate the 30-day period.~~The Employee  
2 Assistance and Ombudsman Office may not represent employees  
3 before the judges of compensation claims. An employer or  
4 carrier may not pay any attorneys' fees on behalf of the  
5 employee for services rendered or costs incurred in connection  
6 with this section, unless expressly authorized elsewhere in  
7 this chapter.

8 Section 10. Subsections (1), (3), and (4) of section  
9 440.25, Florida Statutes, are amended to read:

10 440.25 Procedures for mediation and hearings.--

11 (1) Within 90 ~~21~~ days after a petition for benefits is  
12 filed under s. 440.192, a mediation conference concerning such  
13 petition shall be held. Within 40 ~~7~~ days after such petition  
14 is filed, the judge of compensation claims shall notify the  
15 interested parties by order that a mediation conference  
16 concerning such petition will be held unless the parties have  
17 notified the Office of the Judges of Compensation Claims that  
18 a mediation has been held. Such order must ~~notice shall~~ give  
19 the date by which, ~~time, and location of~~ the mediation  
20 conference must be held. Such order ~~notice~~ may be served  
21 personally upon the interested parties or may be sent to the  
22 interested parties by mail. The claimant or the adjuster of  
23 the employer or carrier may, at the mediator's discretion,  
24 attend the mediation conference by telephone or, if agreed to  
25 by the parties, other electronic means. A continuance may be  
26 granted if the requesting party demonstrates to the judge of  
27 compensation claims that the reason for requesting the  
28 continuance arises from circumstances beyond the party's  
29 control. Any order granting a continuance must set forth the  
30 date of the rescheduled mediation conference. A mediation  
31 conference may not be used solely for the purpose of mediating

1 attorney's fees.

2           (3)(a) Such mediation conference shall be conducted  
3 informally and does not require the use of formal rules of  
4 evidence or procedure. Any information from the files,  
5 reports, case summaries, mediator's notes, or other  
6 communications or materials, oral or written, relating to a  
7 mediation conference under this section obtained by any person  
8 performing mediation duties is privileged and confidential and  
9 may not be disclosed without the written consent of all  
10 parties to the conference. Any research or evaluation effort  
11 directed at assessing the mediation program activities or  
12 performance must protect the confidentiality of such  
13 information. Each party to a mediation conference has a  
14 privilege during and after the conference to refuse to  
15 disclose and to prevent another from disclosing communications  
16 made during the conference whether or not the contested issues  
17 are successfully resolved. This subsection and paragraphs  
18 (4)(a) and (b) shall not be construed to prevent or inhibit  
19 the discovery or admissibility of any information that is  
20 otherwise subject to discovery or that is admissible under  
21 applicable law or rule of procedure, except that any conduct  
22 or statements made during a mediation conference or in  
23 negotiations concerning the conference are inadmissible in any  
24 proceeding under this chapter.

25           1. Unless the parties conduct a private mediation  
26 under subparagraph 2., mediation shall be conducted by a  
27 mediator selected by the Director of the Division of  
28 Administrative Hearings from among mediators ~~shall select a~~  
29 ~~mediator. The mediator shall be~~ employed on a full-time basis  
30 by the Office of the Judges of Compensation Claims. A mediator  
31 must be a member of The Florida Bar for at least 5 years and

1 must complete a mediation training program approved by the  
2 Director of the Division of Administrative Hearings. Adjunct  
3 mediators may be employed by the Office of the Judges of  
4 Compensation Claims on an as-needed basis and shall be  
5 selected from a list prepared by the Director of the Division  
6 of Administrative Hearings. An adjunct mediator must be  
7 independent of all parties participating in the mediation  
8 conference. An adjunct mediator must be a member of The  
9 Florida Bar for at least 5 years and must complete a mediation  
10 training program approved by the Director of the Division of  
11 Administrative Hearings. An adjunct mediator shall have  
12 access to the office, equipment, and supplies of the judge of  
13 compensation claims in each district.

14 2. With respect to any mediation occurring on or after  
15 January 1, 2003, if the parties agree or if mediators are not  
16 available under subparagraph 1. to conduct the required  
17 mediation within the period specified in this section, the  
18 parties shall hold a mediation conference at the carrier's  
19 expense within the 90-day period set for mediation. The  
20 mediation conference shall be conducted by a mediator  
21 certified under s. 44.106. If the parties do not agree upon a  
22 mediator within 10 days after the date of the order, the  
23 claimant shall notify the judge in writing and the judge shall  
24 appoint a mediator under this subparagraph within 7 days.In  
25 the event both parties agree, the results of the mediation  
26 conference shall be binding and neither party shall have a  
27 right to appeal the results. In the event either party refuses  
28 to agree to the results of the mediation conference, the  
29 results of the mediation conference as well as the testimony,  
30 witnesses, and evidence presented at the conference shall not  
31 be admissible at any subsequent proceeding on the claim. The

1 mediator shall not be called in to testify or give deposition  
2 to resolve any claim for any hearing before the judge of  
3 compensation claims. The employer may be represented by an  
4 attorney at the mediation conference if the employee is also  
5 represented by an attorney at the mediation conference.

6 (c) The parties shall complete the pretrial  
7 stipulations before the conclusion of the mediation conference  
8 if the claims, except for attorney's fees and costs, have not  
9 been settled and if any claims in any filed petition remain  
10 unresolved. The judge of compensation claims may impose  
11 sanctions against a party or both parties for failing to  
12 complete the pretrial stipulations before the conclusion of  
13 the mediation conference.

14 (4)(a) If the parties fail to agree upon written  
15 submission of pretrial stipulations at the mediation  
16 conference, on the 10th day following commencement of  
17 mediation, the questions in dispute have not been resolved,  
18 the judge of compensation claims shall order ~~hold~~ a pretrial  
19 hearing to occur within 14 days after the date of mediation  
20 ordered by the judge of compensation claims. The judge of  
21 compensation claims shall give the interested parties at least  
22 7 days' advance notice of the pretrial hearing by mail. At the  
23 pretrial hearing, the judge of compensation claims shall,  
24 subject to paragraph (b), set a date for the final hearing  
25 that allows the parties at least 60 ~~30~~ days to conduct  
26 discovery unless the parties consent to an earlier hearing  
27 date.

28 (b) The final hearing must be held and concluded  
29 within 90 ~~45~~ days after the mediation conference is held  
30 ~~pretrial hearing~~. Continuances may be granted only if the  
31 requesting party demonstrates to the judge of compensation



1 claims that the reason for requesting the continuance arises  
2 from circumstances beyond the party's control. The written  
3 consent of the claimant must be obtained before any request  
4 from a claimant's attorney is granted for an additional  
5 continuance after the initial continuance has been granted.  
6 Any order granting a continuance must set forth the date and  
7 time of the rescheduled hearing. A continuance may be granted  
8 only if the requesting party demonstrates to the judge of  
9 compensation claims that the reason for requesting the  
10 continuance arises from circumstances beyond the control of  
11 the parties. The judge of compensation claims shall report any  
12 grant of two or more continuances to the Deputy Chief Judge.

13 (c) The judge of compensation claims shall give the  
14 interested parties at least 7 days' advance notice of the  
15 final hearing, served upon the interested parties by mail.

16 (d) The final hearing shall be held within 210 days  
17 after receipt of the petition for benefits in the county where  
18 the injury occurred, if the injury occurred in this state,  
19 unless otherwise agreed to between the parties and authorized  
20 by the judge of compensation claims in the county where the  
21 injury occurred. If the injury occurred outside ~~without~~ the  
22 state and is one for which compensation is payable under this  
23 chapter, then the final hearing ~~above referred to~~ may be held  
24 in the county of the employer's residence or place of  
25 business, or in any other county of the state that ~~which~~ will,  
26 in the discretion of the Deputy Chief Judge, be the most  
27 convenient for a hearing. The final hearing shall be conducted  
28 by a judge of compensation claims, who shall, within 30 days  
29 after final hearing or closure of the hearing record, unless  
30 otherwise agreed by the parties, enter a final order on the  
31 merits of the disputed issues. The judge of compensation

1 claims may enter an abbreviated final order in cases in which  
2 compensability is not disputed. Either party may request  
3 separate findings of fact and conclusions of law. At the final  
4 ~~such~~ hearing, the claimant and employer may each present  
5 evidence with in respect to the claims presented by the  
6 petition for benefits of such claim and may be represented by  
7 any attorney authorized in writing for such purpose. When  
8 there is a conflict in the medical evidence submitted at the  
9 hearing, the provisions of s. 440.13 shall apply. The report  
10 or testimony of the expert medical advisor shall be made a  
11 part of the record of the proceeding and shall be given the  
12 same consideration by the judge of compensation claims as is  
13 accorded other medical evidence submitted in the proceeding;  
14 and all costs incurred in connection with such examination and  
15 testimony may be assessed as costs in the proceeding, subject  
16 to the provisions of s. 440.13. No judge of compensation  
17 claims may make a finding of a degree of permanent impairment  
18 that is greater than the greatest permanent impairment rating  
19 given the claimant by any examining or treating physician,  
20 except upon stipulation of the parties. Any benefit due but  
21 not raised at the final hearing which was ripe, due, or owing  
22 at the time of the final hearing is waived.

23 (e) The order making an award or rejecting the claim,  
24 referred to in this chapter as a "compensation order," shall  
25 set forth the findings of ultimate facts and the mandate; and  
26 the order need not include any other reason or justification  
27 for such mandate. The compensation order shall be filed in the  
28 Office of the Judges of Compensation Claims at Tallahassee. A  
29 copy of such compensation order shall be sent by mail to the  
30 parties and attorneys of record at the last known address of  
31 each, with the date of mailing noted thereon.

1           (f) Each judge of compensation claims is required to  
2 submit a special report to the Deputy Chief Judge in each  
3 contested workers' compensation case in which the case is not  
4 determined within 30 days of final hearing or closure of the  
5 hearing record. Said form shall be provided by the director of  
6 the Division of Administrative Hearings and shall contain the  
7 names of the judge of compensation claims and of the attorneys  
8 involved and a brief explanation by the judge of compensation  
9 claims as to the reason for such a delay in issuing a final  
10 order.

11           (g) Notwithstanding any other provision of this  
12 section, the judge of compensation claims may require the  
13 appearance of the parties and counsel before her or him  
14 without written notice for an emergency conference where there  
15 is a bona fide emergency involving the health, safety, or  
16 welfare of an employee. An emergency conference under this  
17 section may result in the entry of an order or the rendering  
18 of an adjudication by the judge of compensation claims.

19           (h) To expedite dispute resolution and to enhance the  
20 self-executing features of the Workers' Compensation Law, the  
21 Deputy Chief Judge shall make provision by rule or order for  
22 the resolution of appropriate motions by judges of  
23 compensation claims without oral hearing upon submission of  
24 brief written statements in support and opposition, and for  
25 expedited discovery and docketing. Unless the judge of  
26 compensation claims, for good cause, orders a hearing under  
27 paragraph (i), each claim in a petition relating to the  
28 determination of pay under s. 440.14 shall be resolved under  
29 this paragraph without oral hearing.

30           (i) To further expedite dispute resolution and to  
31 enhance the self-executing features of the system, those

1 petitions filed in accordance with s. 440.192 that involve a  
2 claim for benefits of \$5,000 or less shall, in the absence of  
3 compelling evidence to the contrary, be presumed to be  
4 appropriate for expedited resolution under this paragraph; and  
5 any other claim filed in accordance with s. 440.192, upon the  
6 written agreement of both parties and application by either  
7 party, may similarly be resolved under this paragraph. A claim  
8 in a petition or \$5,000 or less for medical benefits only or a  
9 petition for reimbursement for mileage for medical purposes  
10 shall, in the absence of compelling evidence to the contrary,  
11 be resolved through the expedited dispute-resolution process  
12 provided in this paragraph. For purposes of expedited  
13 resolution pursuant to this paragraph, the Deputy Chief Judge  
14 shall make provision by rule or order for expedited and  
15 limited discovery and expedited docketing in such cases. At  
16 least 15 days prior to hearing, the parties shall exchange and  
17 file with the judge of compensation claims a pretrial outline  
18 of all issues, defenses, and witnesses on a form adopted by  
19 the Deputy Chief Judge; provided, in no event shall such  
20 hearing be held without 15 days' written notice to all  
21 parties. No pretrial hearing shall be held. The judge of  
22 compensation claims shall limit all argument and presentation  
23 of evidence at the hearing to a maximum of 30 minutes, and  
24 such hearings shall not exceed 30 minutes in length. Neither  
25 party shall be required to be represented by counsel. The  
26 employer or carrier may be represented by an adjuster or other  
27 qualified representative. The employer or carrier and any  
28 witness may appear at such hearing by telephone. The rules of  
29 evidence shall be liberally construed in favor of allowing  
30 introduction of evidence.

31 (j) A judge of compensation claims may, upon the

1 motion of a party or the judge's own motion, dismiss a  
2 petition for lack of prosecution if a petition, response,  
3 motion, order, request for hearing, or notice of deposition  
4 has not been filed during the previous 12 months unless good  
5 cause is shown. A dismissal for lack of prosecution is without  
6 prejudice and does not require a hearing.

7 (k) A judge of compensation claims may not award  
8 interest on unpaid medical bills and the amount of such bills  
9 may not be used to calculate the amount of interest awarded.  
10 Regardless of the date benefits were initially requested,  
11 attorney's fees do not attach under this subsection until 30  
12 days after the date the carrier or self-insured employer  
13 receives the petition.

14 Section 11. Subsection (3) of section 440.34, Florida  
15 Statutes, is amended to read:

16 (3) If the claimant should prevail in any proceedings  
17 before a judge of compensation claims or court, there shall be  
18 taxed against the employer the reasonable costs of such  
19 proceedings, not to include the attorney's fees of the  
20 claimant. A claimant shall be responsible for the payment of  
21 her or his own attorney's fees, except that a claimant shall  
22 be entitled to recover a reasonable attorney's fee from a  
23 carrier or employer:

24 (a) Against whom she or he successfully asserts a  
25 petition claim for medical benefits only, if the claimant has  
26 not filed or is not entitled to file at such time a claim for  
27 disability, permanent impairment, wage-loss, or death  
28 benefits, arising out of the same accident; ~~or~~

29 (b) In any case in which the employer or carrier files  
30 a response to petition denying benefits with the Office of the  
31 Judges of Compensation Claims and the injured person has

1 employed an attorney in the successful prosecution of the  
2 petition claim; or

3 (c) In a proceeding in which a carrier or employer  
4 denies that an accident injury occurred for which compensation  
5 benefits are payable, and the claimant prevails on the issue  
6 of compensability; or

7 (d) In cases where the claimant successfully prevails  
8 in proceedings filed under s. 440.24 or s. 440.28.

9  
10 Regardless of the date benefits were initially requested,  
11 attorney's fees shall not attach under this subsection until  
12 30 days after the date the carrier or employer, if  
13 self-insured, receives the petition. In applying the factors  
14 set forth in subsection (1) to cases arising under paragraphs  
15 (a), (b), (c), and (d), the judge of compensation claims must  
16 only consider only such benefits and the time reasonably spent  
17 in obtaining them as were secured for the claimant within the  
18 scope of paragraphs (a), (b), (c), and (d).

19 Section 12. Subsections (2), (3), and (6) of section  
20 440.381, Florida Statutes, are amended to read:

21 440.381 Application for coverage; reporting payroll;  
22 payroll audit procedures; penalties.--

23 (2) The application must contain a statement that the  
24 filing of an application containing false, misleading, or  
25 incomplete information with the purpose of avoiding or  
26 reducing the amount of premiums for workers' compensation  
27 coverage is a felony of the third degree, punishable as  
28 provided in s. 775.082, s. 775.083, or s. 775.084. The  
29 application must contain a sworn statement by the employer  
30 attesting to the accuracy of the information submitted and  
31 acknowledging the provisions of former s. 440.37(4). The

1 application must contain a sworn statement by the agent  
2 attesting that the agent explained to the employer or officer  
3 the classification codes that are used for premium  
4 calculations.

5 (3) The Department of Insurance and the Department of  
6 Labor and Employment Security shall establish by rule minimum  
7 requirements for audits of payroll and classifications in  
8 order to ensure that the appropriate premium is charged for  
9 workers' compensation coverage. The rules shall ensure that  
10 audits performed by both carriers and employers are adequate  
11 to provide that all sources of payments to employees,  
12 subcontractors, and independent contractors have been reviewed  
13 and that the accuracy of classification of employees has been  
14 verified. The rules shall provide that employers in all  
15 classes other than the construction class be audited not less  
16 frequently than biennially and may provide for more frequent  
17 audits of employers in specified classifications based on  
18 factors such as amount of premium, type of business, loss  
19 ratios, or other relevant factors. In no event shall employers  
20 in the construction class, generating more than the amount of  
21 premium required to be experience rated, be audited less than  
22 annually. The annual audits required for construction classes  
23 shall consist of physical onsite audits. Payroll verification  
24 audit rules must include, but need not be limited to, the use  
25 of state and federal reports of employee income, payroll and  
26 other accounting records, certificates of insurance maintained  
27 by subcontractors, and duties of employees. At the completion  
28 of an audit, the employer or officer of the corporation and  
29 the auditor must print and sign their names on the audit  
30 document and attach proof of identification to the audit  
31 document.

1           (6) If an employer ~~intentionally~~ understates or  
2 conceals payroll, or misrepresents or conceals employee duties  
3 so as to avoid proper classification for premium calculations,  
4 or misrepresents or conceals information pertinent to the  
5 computation and application of an experience rating  
6 modification factor, the employer, or the employer's agent or  
7 attorney, shall pay to the insurance carrier a penalty of 10  
8 times the amount of the difference in premium paid and the  
9 amount the employer should have paid and reasonable attorney's  
10 fees. The penalty may be enforced in the circuit courts of  
11 this state.

12           Section 13. Section 440.40, Florida Statutes, is  
13 amended to read:

14           440.40 Compensation notice.--Every employer who has  
15 secured compensation under the provisions of this chapter  
16 shall keep posted in a conspicuous place or places in and  
17 about her or his place or places of business typewritten or  
18 printed notices, in accordance with a form prescribed by the  
19 division, the following:

20           (1) A notice stating that such employer has secured  
21 the payment of compensation in accordance with the provisions  
22 of this chapter. Such notices shall contain the name and  
23 address of the carrier, if any, with whom the employer has  
24 secured payment of compensation and the date of the expiration  
25 of the policy. The division may by rule prescribe the form of  
26 the notices and require carriers to provide the notices to  
27 policyholders.

28           (2) A notice stating: "Anti-Fraud Reward  
29 Program.--Rewards of up to \$25,000 may be paid to persons  
30 providing information to the Department of Insurance leading  
31 to the arrest and conviction of persons committing insurance



1 fraud, including employers who illegally fail to obtain  
2 workers' compensation coverage. Persons may report suspected  
3 fraud to the department at...(Phone No.).... A person is not  
4 subject to civil liability for furnishing such information, if  
5 such person acts without malice, fraud, or bad faith."

6 Section 14. Subsection (1) of section 440.45, Florida  
7 Statutes, is amended to read:

8 440.45 Office of the Judges of Compensation Claims.--

9 (1)(a) There is created the Office of the Judges of  
10 Compensation Claims within the Department of Management  
11 Services. The Office of the Judges of Compensation Claims  
12 shall be headed by the Deputy Chief Judge of Compensation  
13 Claims. The Deputy Chief Judge shall report to the director of  
14 the Division of Administrative Hearings. The Deputy Chief  
15 Judge shall be appointed by the Governor for a term of 4 years  
16 from a list of three names submitted by the statewide  
17 nominating commission created under subsection (2). The Deputy  
18 Chief Judge must demonstrate prior administrative experience  
19 and possess the same qualifications for appointment as a judge  
20 of compensation claims, and the procedure for reappointment of  
21 the Deputy Chief Judge will be the same as for reappointment  
22 of a judge of compensation claims. The office shall be a  
23 separate budget entity and the director of the Division of  
24 Administrative Hearings shall be its agency head for all  
25 purposes, including, but not limited to, rulemaking pursuant  
26 to subsection (4) and establishing agency policies and  
27 procedures. The Department of Management Services shall  
28 provide administrative support and service to the office to  
29 the extent requested by the director of the Division of  
30 Administrative Hearings but shall not direct, supervise, or  
31 control the Office of the Judges of Compensation Claims in any

1 manner, including, but not limited to, personnel, purchasing,  
2 budgetary matters, or property transactions. The operating  
3 budget of the Office of the Judges of Compensation Claims  
4 shall be paid out of the Workers' Compensation Administration  
5 Trust Fund established in s. 440.50.

6 (b) The current term of the Chief Judge of  
7 Compensation Claims shall expire October 1, 2001. Effective  
8 October 1, 2001, the position of Deputy Chief Judge of  
9 Compensation Claims is created.

10 Section 15. Section 489.114, Florida Statutes, is  
11 amended to read:

12 489.114 Evidence of workers' compensation  
13 coverage.--Except as provided in s. 489.115(5)(d), any person,  
14 business organization, or qualifying agent engaged in the  
15 business of contracting in this state and certified or  
16 registered under this part shall, as a condition precedent to  
17 the issuance or renewal of a certificate, registration, or  
18 certificate of authority of the contractor, provide to the  
19 Construction Industry Licensing Board, as provided by board  
20 rule, evidence of workers' compensation coverage pursuant to  
21 chapter 440. In the event that the Division of Workers'  
22 Compensation of the Department of Labor and Employment  
23 Security receives notice of the cancellation of a policy of  
24 workers' compensation insurance insuring a person or entity  
25 governed by this section, the Division of Workers'  
26 Compensation shall certify and identify all persons or  
27 entities by certification or registration license number to  
28 the department after verification is made by the Division of  
29 Workers' Compensation that ~~such cancellation has occurred or~~  
30 ~~that~~ persons or entities governed by this section are no  
31 longer covered by workers' compensation insurance. Such

1 certification and verification by the Division of Workers'  
2 Compensation ~~may shall~~ result ~~solely~~ from records furnished to  
3 the Division of Workers' Compensation by the persons or  
4 entities governed by this section or an investigation  
5 completed by the Division of Workers' Compensation. The  
6 department shall notify the persons or entities governed by  
7 this section who have been determined to be in noncompliance  
8 with chapter 440, and the persons or entities notified shall  
9 provide certification of compliance with chapter 440 to the  
10 department and pay an administrative fine in the amount of  
11 \$500 as provided by rule. The failure to maintain workers'  
12 compensation coverage as required by law shall be grounds for  
13 the board to revoke, suspend, or deny the issuance or renewal  
14 of a certificate, registration, or certificate of authority of  
15 the contractor under the provisions of s. 489.129.

16 Section 16. Section 489.510, Florida Statutes, is  
17 amended to read:

18 489.510 Evidence of workers' compensation  
19 coverage.--Except as provided in s. 489.515(3)(b), any person,  
20 business organization, or qualifying agent engaged in the  
21 business of contracting in this state and certified or  
22 registered under this part shall, as a condition precedent to  
23 the issuance or renewal of a certificate or registration of  
24 the contractor, provide to the Electrical Contractors'  
25 Licensing Board, as provided by board rule, evidence of  
26 workers' compensation coverage pursuant to chapter 440. In  
27 the event that the Division of Workers' Compensation of the  
28 Department of Labor and Employment Security receives notice of  
29 the cancellation of a policy of workers' compensation  
30 insurance insuring a person or entity governed by this  
31 section, the Division of Workers' Compensation shall certify

1 and identify all persons or entities by certification or  
2 registration license number to the department after  
3 verification is made by the Division of Workers' Compensation  
4 that ~~such cancellation has occurred or that~~ persons or  
5 entities governed by this section are no longer covered by  
6 workers' compensation insurance. Such certification and  
7 verification by the Division of Workers' Compensation may  
8 shall result ~~solely~~ from records furnished to the Division of  
9 Workers' Compensation by the persons or entities governed by  
10 this section or an investigation completed by the Division of  
11 Workers' Compensation. The department shall notify the persons  
12 or entities governed by this section who have been determined  
13 to be in noncompliance with chapter 440, and the persons or  
14 entities notified shall provide certification of compliance  
15 with chapter 440 to the department and pay an administrative  
16 fine in the amount of \$500 ~~as provided by rule~~. The failure  
17 to maintain workers' compensation coverage as required by law  
18 shall be grounds for the board to revoke, suspend, or deny the  
19 issuance or renewal of a certificate or registration of the  
20 contractor under the provisions of s. 489.533.

21 Section 17. Subsection (2) of section 626.9892,  
22 Florida Statutes, is amended to read:

23 626.9892 Anti-Fraud Reward Program; reporting of  
24 insurance fraud.--

25 (2) The department may pay rewards of up to \$25,000 to  
26 persons providing information leading to the arrest and  
27 conviction of persons committing ~~complex or organized~~ crimes  
28 investigated by the Division of Insurance Fraud arising from  
29 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989,  
30 or s. 817.234.

31 Section 18. The Department of Insurance, in

1 consultation with the board of governors of the joint  
 2 underwriting association authorized under s. 627.311, Florida  
 3 Statutes, shall conduct a study of the response of the  
 4 insurance market in meeting the need for coverage among  
 5 construction industry employers at a rate that is not  
 6 inadequate, excessive, or unfairly discriminatory, and any  
 7 actual or potential availability concerns. The scope of the  
 8 study shall include a review of workers' compensation  
 9 insurance currently provided or required in other states and  
 10 possible alternative coverages. The department shall submit a  
 11 report recommending any changes needed to promote availability  
 12 of coverage at a rate that is not inadequate, excessive, or  
 13 unfairly discriminatory, to the President of the Senate and  
 14 the Speaker of the House of Representatives on or before  
 15 February 1, 2003.

16  
17

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

19 And the title is amended as follows:

20        On page 1, line 9

21

22 after the semicolon, insert:

23        amending s. 440.02, F.S.; redefining the terms  
 24        "employee" and "independent contractor";  
 25        prohibiting exemptions from coverage for  
 26        commercial construction job sites; defining the  
 27        terms "commercial building" and "residential  
 28        building"; amending s. 440.05, F.S.; requiring  
 29        employers to maintain business records  
 30        specified by rules of the Division of Workers'  
 31        Compensation, relative to exemptions from

1 coverage; revising requirements for election of  
2 exemptions for coverage; amending s. 440.10,  
3 F.S.; providing penalties for employers who  
4 fail to secure compensation; amending s.  
5 440.107, F.S.; requiring and authorizing the  
6 division to issue stop-work orders and to  
7 impose certain penalties against employers who  
8 fail to secure compensation; requiring the  
9 division to notify the Department of Business  
10 and Professional Regulation; amending s.  
11 440.13, F.S.; providing for responsibilities of  
12 the three-member panel; requiring provision of  
13 data and support services by the division;  
14 revising the limitation on medical fees;  
15 providing for discontinuance of medical care  
16 under a managed care plan regardless of the  
17 date of an accident; amending s. 440.191, F.S.;  
18 revising duties of the Employee Assistance and  
19 Ombudsman Office; removing a requirement that  
20 an employee exhaust certain dispute-resolution  
21 procedures before filing a petition requesting  
22 benefits; amending s. 440.25, F.S.; revising  
23 procedures for mediation and hearings;  
24 extending the time for ordering and holding  
25 mediation conferences; providing requirements  
26 for granting a continuance; providing for  
27 mediation conducted by mediators other than  
28 from the Office of the Judges of Compensation  
29 Claims; requiring that the parties complete  
30 pretrial stipulations before concluding  
31 mediation; extending the time for holding final

1       hearings; providing for waiver of any benefit  
2       not raised at the final hearing; providing for  
3       an expedited determination of pay; requiring  
4       that certain claims be resolved through an  
5       expedited process; providing for dismissal for  
6       lack of prosecution; limiting the payment of  
7       interest and the attachment of attorney's fees;  
8       amending s. 440.34, F.S.; revising provisions  
9       governing the award of claimant's attorney's  
10      fees; limiting the attachment of claimant's  
11      attorney's fees; amending s. 440.381, F.S.;  
12      requiring that the application for workers'  
13      compensation coverage contain a sworn statement  
14      by the agent; providing a penalty for carriers  
15      that fail to comply with audit requirements;  
16      revising requirements for audits; amending s.  
17      440.40, F.S.; requiring employers to post a  
18      notice related to the anti-fraud reward  
19      program; amending s. 440.45, F.S., relating to  
20      the Office of the Judges of Compensation  
21      Claims; clarifying the responsibilities of the  
22      director of the Division of Administrative  
23      Hearings as agency head of the Office of the  
24      Judges of Compensation Claims; amending ss.  
25      489.114 and 489.510, F.S.; revising provisions  
26      governing the verification by the division of  
27      coverage of persons engaged in the business of  
28      contracting; specifying an administrative fine  
29      for contractors who are in noncompliance with  
30      chapter 440, F.S., to be paid to the Department  
31      of Business and Professional Regulation;

1           amending s. 626.9892, F.S.; revising the  
2           criteria for the anti-fraud program; requiring  
3           the Department of Insurance to conduct a study  
4           related to workers' compensation for persons  
5           engaged in the construction industry;  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31