

By the Committee on Insurance and Representatives Waters,
Simmons, Negron, Berfield, Brown, Clarke, Ross, McGriff,
Kallinger, Fields, Melvin, Baker and Lee

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.02, F.S.; revising definitions;
4 amending s. 440.05, F.S.; requiring the
5 Division of Corporations to establish criteria
6 for sole proprietors and partners electing
7 exemption under certain circumstances; limiting
8 services sole proprietors, partners, and
9 corporate officers electing to be exempt may
10 provide; requiring that a corporate officer
11 claiming an exemption from ch. 440, F.S., be
12 listed with the Department of State; requiring
13 that the Division of Workers' Compensation of
14 the Department of Labor and Employment Security
15 issue a stop-work order upon failure to produce
16 such records or maintain such listing; limiting
17 application of the exemption; amending s.
18 440.06, F.S.; clarifying certain limitations
19 imposed on an employer who fails to secure
20 compensation; amending s. 440.09, F.S.;
21 requiring compensation for accidental
22 compensable injuries; amending s. 440.091,
23 F.S.; specifying circumstances under which
24 firefighters, emergency medical technicians,
25 and paramedics are considered to be acting
26 within the scope of their employment so as to
27 qualify for workers' compensation benefits;
28 characterizing certain activities of certain
29 officers as arising out of and in the course of
30 employment for compensability purposes and
31 providing circumstances under which certain

1 officers may continue in full-pay status when
2 injured; amending s. 440.092, F.S.; deleting a
3 provision relating to the going and coming rule
4 applicable to certain law enforcement officers
5 that is transferred by the amendment to s.
6 440.091, F.S.; providing a declaration of
7 important state interest; amending s. 440.10,
8 F.S.; revising certain limitations on an
9 employer's liability for compensation; amending
10 s. 440.107, F.S.; providing for a penalty to be
11 imposed against an employer for certain
12 misrepresentations made to a carrier; requiring
13 that the division notify the Department of
14 Business and Professional Regulation upon the
15 failure of certain employers to secure payment
16 of workers' compensation; amending s. 440.11,
17 F.S.; revising provisions relating to employer
18 liability to provide an exemption in the case
19 of intentional misconduct by an employer;
20 amending s. 440.13, F.S.; requiring that costs
21 for an independent medical examination be
22 determined under ch. 440, F.S.; requiring the
23 carrier to give the employee the opportunity to
24 change physicians under certain circumstances
25 and limitations; revising the effect of an
26 independent medical examination; limiting the
27 admissibility of certain medical opinions;
28 revising the limitation on medical fees;
29 providing an exception to certain recourse for
30 payment for services rendered; amending s.
31 440.134, F.S.; providing for discontinuance of

1 medical care under a managed care plan
2 regardless of the date of an accident; amending
3 s. 440.14, F.S.; revising the computation of
4 the average weekly wage of an employee for the
5 purposes of determining benefits; amending s.
6 440.15, F.S.; revising the criteria for
7 permanent total disability; revising the
8 compensation rate for impairment income
9 benefits; deleting a provision relating to
10 full-pay status for certain law enforcement
11 officers that is transferred by the amendment
12 to s. 440.091, F.S., and providing a reference
13 thereto; amending s. 440.191, F.S.; authorizing
14 the Employee Assistance and Ombudsman Office to
15 initiate contact with an injured employee to
16 discuss rights and responsibilities; revising
17 other duties of the office; amending s.
18 440.192, F.S.; revising the procedures for
19 resolving benefit disputes and filing petitions
20 for benefits; specifying information that must
21 be included in a petition for benefits;
22 requiring that a claim be raised by petition
23 for purposes of adjudication; amending s.
24 440.20, F.S.; limiting amount of attorney's
25 fees in cases determining lump-sum settlements;
26 amending s. 440.25, F.S.; revising procedures
27 for mediation and hearings; extending the time
28 for ordering and holding mediation conferences;
29 providing requirements for granting a
30 continuance; providing for mediation conducted
31 by mediators other than from the Office of the

1 Judges of Compensation Claims; requiring that
2 the parties complete pretrial stipulations
3 before concluding mediation; extending the time
4 for holding final hearings; providing for
5 waiver of any benefit not raised at the final
6 hearing; providing for an expedited
7 determination of pay; requiring that certain
8 claims be resolved through an expedited
9 process; providing for dismissal for lack of
10 prosecution; limiting the payment of interest
11 and the attachment of attorney's fees; amending
12 s. 440.271, F.S.; requiring appellate mediation
13 and providing procedures therefor; amending s.
14 440.29, F.S.; requiring opinions of independent
15 medical examiners to be received into evidence
16 under certain conditions; amending s. 440.34,
17 F.S.; revising the limit on the amount of
18 attorney's fees that may be approved by a judge
19 of compensation claims and eliminating factors
20 that the judge must consider; applying such
21 limits to any agreement related to benefits
22 under ch. 440, F.S.; requiring the Board of
23 Governors of the Joint Underwriting Plan to
24 conduct a study and provide a report to the
25 Legislature; providing for application;
26 providing for construction; providing for
27 severability; providing effective dates.

28
29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (1), paragraph (d) of subsection
2 (14), and subsection (37) of section 440.02, Florida Statutes,
3 are amended, and subsections (40), (41), and (42) are added to
4 said section, to read:

5 440.02 Definitions.--When used in this chapter, unless
6 the context clearly requires otherwise, the following terms
7 shall have the following meanings:

8 (1) "Accident" means only an unexpected or unusual
9 event or result that happens suddenly. A mental or nervous
10 injury due to stress, fright, or excitement only, or
11 disability or death due to the accidental acceleration or
12 aggravation of a venereal disease or of a disease due to the
13 habitual use of alcohol or controlled substances or narcotic
14 drugs, or a disease that manifests itself in the fear of or
15 dislike for an individual because of the individual's race,
16 color, religion, sex, national origin, age, or handicap is not
17 an injury by accident arising out of the employment. If a
18 preexisting disease or anomaly is accelerated or aggravated by
19 an accident arising out of and in the course of employment,
20 only acceleration of death or acceleration or aggravation of
21 the preexisting condition reasonably attributable to the
22 accident is compensable, with respect to death or permanent
23 impairment. An injury or exposure caused by exposure to a
24 toxic substance is not an injury by accident arising out of
25 the employment unless there is clear and convincing evidence
26 establishing that exposure to the specific substance involved,
27 at the levels at which the employee was exposed, can cause the
28 injury or disease sustained by the employee.

29 (14)

30 (d) "Employee" does not include:

31 1. An independent contractor, if:

- 1 a. The independent contractor maintains a separate
2 business with his or her own work facility, truck, equipment,
3 materials, or similar accommodations;
- 4 b. The independent contractor holds or has applied for
5 a federal employer identification number, unless the
6 independent contractor is a sole proprietor who is not
7 required to obtain a federal employer identification number
8 under state or federal requirements;
- 9 c. The independent contractor performs or agrees to
10 perform specific services or work for specific amounts of
11 money and controls the means of performing the services or
12 work;
- 13 d. The independent contractor incurs the principal
14 expenses related to the service or work that he or she
15 performs or agrees to perform;
- 16 e. The independent contractor is responsible for the
17 satisfactory completion of work or services that he or she
18 performs or agrees to perform and is or could be held liable
19 for a failure to complete the work or services;
- 20 f. The independent contractor receives compensation
21 for work or services performed for a commission or on a
22 per-job or competitive-bid basis and not on any other basis;
- 23 g. The independent contractor may realize a profit or
24 suffer a loss in connection with performing work or services;
- 25 h. The independent contractor has continuing or
26 recurring business liabilities or obligations; and
- 27 i. The success or failure of the independent
28 contractor's business depends on the relationship of business
29 receipts to expenditures.
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1 However, the determination as to whether an individual
2 included in the Standard Industrial Classification Manual of
3 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762,
4 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436,
5 2448, or 2449, or a newspaper delivery person, is an
6 independent contractor is governed not by the criteria in this
7 paragraph but by common-law principles, giving due
8 consideration to the business activity of the individual.

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

12 3. Bands, orchestras, and musical and theatrical
13 performers, including disk jockeys, performing in licensed
14 premises as defined in chapter 562, if a written contract
15 evidencing an independent contractor relationship is entered
16 into before the commencement of such entertainment.

17 4. An owner-operator of a motor vehicle who transports
18 property under a written contract with a motor carrier which
19 evidences a relationship by which the owner-operator assumes
20 the responsibility of an employer for the performance of the
21 contract, if the owner-operator is required to furnish the
22 necessary motor vehicle equipment and all costs incidental to
23 the performance of the contract, including, but not limited
24 to, fuel, taxes, licenses, repairs, and hired help; and the
25 owner-operator is paid a commission for transportation service
26 and is not paid by the hour or on some other time-measured
27 basis.

28 5. A person whose employment is both casual and not in
29 the course of the trade, business, profession, or occupation
30 of the employer.

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

8 a. Persons who serve in private nonprofit agencies and
9 who receive no compensation other than expenses in an amount
10 less than or equivalent to the standard mileage and per diem
11 expenses provided to salaried employees in the same agency or,
12 if such agency does not have salaried employees who receive
13 mileage and per diem, then such volunteers who receive no
14 compensation other than expenses in an amount less than or
15 equivalent to the customary mileage and per diem paid to
16 salaried workers in the community as determined by the
17 division; and

18 b. Volunteers participating in federal programs
19 established under Pub. L. No. 93-113.

20 7. Any officer of a corporation who elects to be
21 exempt from this chapter.

22 8. A sole proprietor or officer of a corporation who
23 actively engages in the construction industry, and a partner
24 in a partnership that is actively engaged in the construction
25 industry, who elects to be exempt from the provisions of this
26 chapter. Such sole proprietor, officer, or partner is not an
27 employee for any reason until the notice of revocation of
28 election filed pursuant to s. 440.05 is effective.

29 9. An exercise rider who does not work for a single
30 horse farm or breeder, and who is compensated for riding on a
31 case-by-case basis, provided a written contract is entered

1 into prior to the commencement of such activity which
2 evidences that an employee/employer relationship does not
3 exist.

4 10. A taxicab, limousine, or other passenger
5 vehicle-for-hire driver who operates said vehicles pursuant to
6 a written agreement with a company which provides any
7 dispatch, marketing, insurance, communications, or other
8 services under which the driver and any fees or charges paid
9 by the driver to the company for such services are not
10 conditioned upon, or expressed as a proportion of, fare
11 revenues.

12 11. A person who performs services as a sports
13 official for an entity sponsoring an interscholastic sports
14 event or for a public entity or private, nonprofit
15 organization that sponsors an amateur sports event. For
16 purposes of this subparagraph, such a person is an independent
17 contractor. For purposes of this subparagraph, the term
18 "sports official" means any person who is a neutral
19 participant in a sports event, including, but not limited to,
20 umpires, referees, judges, linespersons, scorekeepers, or
21 timekeepers. This subparagraph does not apply to any person
22 employed by a district school board who serves as a sports
23 official as required by the employing school board or who
24 serves as a sports official as part of his or her
25 responsibilities during normal school hours.

26 12. For the purposes of a nurse registry, as defined
27 in s. 400.462(15) and licensed pursuant to s. 400.506, a
28 registered nurse or licensed practical nurse, licensed under
29 chapter 464, or a certified nursing assistant, home health
30 aide, companion, or homemaker, as they are defined in s.
31 400.462.

1 (37) "Catastrophic injury" means a permanent
2 impairment constituted by:
3 (a) Spinal cord injury involving severe paralysis of
4 an arm, a leg, or the trunk;
5 (b) Amputation of an arm, a hand, a foot, or a leg
6 involving the effective loss of use of that appendage;
7 (c) Severe brain or closed-head injury as evidenced
8 by:
9 1. Severe sensory or motor disturbances;
10 2. Severe communication disturbances;
11 3. Severe complex integrated disturbances of cerebral
12 function;
13 4. Severe episodic neurological disorders; or
14 5. Other severe brain and closed-head injury
15 conditions at least as severe in nature as any condition
16 provided in subparagraphs 1.-4.;
17 (d) Second-degree or third-degree burns of 25 percent
18 or more of the total body surface or third-degree burns of 5
19 percent or more to the face and hands; or
20 (e) Total or industrial blindness; ~~or~~
21 ~~(f) Any other injury that would otherwise qualify~~
22 ~~under this chapter of a nature and severity that would qualify~~
23 ~~an employee to receive disability income benefits under Title~~
24 ~~II or supplemental security income benefits under Title XVI of~~
25 ~~the federal Social Security Act as the Social Security Act~~
26 ~~existed on July 1, 1992, without regard to any time~~
27 ~~limitations provided under that act.~~
28 (40) "Specificity" means information provided on the
29 petition for benefits sufficient to put the employer or
30 carrier on notice of the exact statutory classification and
31 outstanding time period of benefits being requested, including

1 a detailed explanation of any benefits received that should be
2 increased, decreased, changed, or otherwise modified. For
3 purposes of petitions for medical benefits only, "specificity"
4 means the specific reason the benefit is being requested, the
5 benefit is medically necessary, and the current treatment, if
6 any, is not sufficient.

7 (41) "Commerical building" means any building or
8 structure intended for commerical or industrial use, or any
9 building or structure intended for multifamily use of more
10 than four dwelling units, as well as any accessory use
11 structures constructed in conjunction with the principle
12 structure.

13 (42) "Residential building" means any building or
14 structure intended for residential use containing four or
15 fewer dwelling units and any structures intended as an
16 accessory use to the residential structure.

17 Section 2. Subsections (10), (11), and (12) are added
18 to section 440.05, Florida Statutes, to read:

19 440.05 Election of exemption; revocation of election;
20 notice; certification.--

21 (10) For those sole proprietors or partners that have
22 not been in business long enough to provide the information
23 required of an established business, the division shall
24 establish by rule such other criteria to show that the sole
25 proprietor or partner intends to engage in a legitimate
26 enterprise within the construction industry and is not
27 otherwise attempting to evade the requirements of this act.

28 (11) No sole proprietor, partner, or corporate officer
29 electing to be exempt shall provide construction services on a
30 commercial building. However, any contractor who is engaged
31 primarily in residential construction but performs work on a

1 commercial building where the prime construction contract does
2 not exceed \$250,000, or any contractor engaged primarily in
3 residential construction who is converting an existing
4 residential building to a commercial building, may perform
5 service under such contract or conversion.

6 (12)(a) Any corporate officer claiming an exemption
7 under this section must be listed as a corporate officer on
8 the records of the Department of State. If the person
9 claiming an exemption as a corporate officer is not listed in
10 the records of the Department of State, the person must
11 provide to the division, upon request by the division, a
12 notarized affidavit stating that the person is a bona fide
13 officer of the corporation and stating the date his or her
14 appointment or election as a corporate officer became or will
15 become effective. The statement must be signed under oath by
16 both the officer in question and the president or chief
17 operating officer of the corporation and must be notarized.
18 The division shall issue a stop-work order under s. 440.107 to
19 any person who claims to be exempt as a corporate officer but
20 who fails or refuses to produce the documents required under
21 this subsection to the division within 3 business days after
22 the request is made, or who fails to otherwise secure the
23 insurance coverage for workers' compensation benefits for
24 himself or herself if required to do so under this chapter.

25 (b) An exemption from the requirements of this chapter
26 applies only to the person claiming the exemption and only for
27 the entity that is the subject of the federal income tax
28 reports filed by the person claiming the exemption. A separate
29 exemption is required for each corporation from which a person
30 receives any remuneration for labor, services, or products.

31

1 Section 3. Section 440.06, Florida Statutes, is
2 amended to read:

3 440.06 Failure to secure compensation; effect.--Every
4 employer who fails to secure the payment of compensation as
5 provided in s. 440.10 by failing to meet the requirements of
6 ~~under this chapter as provided in s. 440.38~~ may not, in any
7 suit brought against him or her by an employee subject to this
8 chapter to recover damages for injury or death, defend such a
9 suit on the grounds that the injury was caused by the
10 negligence of a fellow servant, that the employee assumed the
11 risk of his or her employment, or that the injury was due to
12 the comparative negligence of the employee.

13 Section 4. Subsection (1) of section 440.09, Florida
14 Statutes, is amended to read:

15 440.09 Coverage.--

16 (1) The employer shall pay compensation or furnish
17 benefits required by this chapter if the employee suffers an
18 accidental, compensable injury or death arising out of work
19 performed in the course and the scope of employment. The
20 injury, its occupational cause, and any resulting
21 manifestations or disability shall be established to a
22 reasonable degree of medical certainty and by objective
23 medical findings. Mental or nervous injuries occurring as a
24 manifestation of an injury compensable under this section
25 shall be demonstrated by clear and convincing evidence. In a
26 case involving occupational disease or repetitive exposure,
27 both causation and sufficient exposure to support causation
28 must be proven by a preponderance of the evidence.

29 (a) This chapter does not require any compensation or
30 benefits for any subsequent injury the employee suffers as a
31 result of an original injury arising out of and in the course

1 of employment unless the original injury is the major
2 contributing cause of the subsequent injury. The work-related
3 accident must be more than 50-percent responsible for the
4 injury and subsequent disability or need for treatment in
5 order for the accident to be a major contributing cause.

6 (b) If an injury arising out of and in the course of
7 employment combines with a preexisting disease or condition to
8 cause or prolong disability or need for treatment, the
9 employer must pay compensation or benefits required by this
10 chapter only to the extent that the injury arising out of and
11 in the course of employment is and remains more than
12 50-percent responsible for ~~the major contributing cause of the~~
13 disability or need for treatment.

14 (c) Death resulting from an operation by a surgeon
15 furnished by the employer for the cure of hernia as required
16 in s. 440.15(6) shall for the purpose of this chapter be
17 considered to be a death resulting from the accident causing
18 the hernia.

19 (d) If an accident happens while the employee is
20 employed elsewhere than in this state, which would entitle the
21 employee or his or her dependents to compensation if it had
22 happened in this state, the employee or his or her dependents
23 are entitled to compensation if the contract of employment was
24 made in this state, or the employment was principally
25 localized in this state. However, if an employee receives
26 compensation or damages under the laws of any other state, the
27 total compensation for the injury may not be greater than is
28 provided in this chapter.

29 Section 5. Section 440.091, Florida Statutes, is
30 amended to read:

31

1 440.091 Law enforcement officer, firefighter,
2 emergency medical technician, or paramedic; when acting within
3 the course of employment.--
4 (1) If an employee:
5 (a)~~(1)~~ Is elected, appointed, or employed full time by
6 a municipality, the state, or any political subdivision and is
7 vested with authority to bear arms and make arrests and the
8 employee's primary responsibility is the prevention or
9 detection of crime or the enforcement of the penal, criminal,
10 traffic, or highway laws of the state;
11 (b)~~(2)~~ Was discharging that primary responsibility
12 within the state in a place and under circumstances reasonably
13 consistent with that primary responsibility; and
14 (c)~~(3)~~ Was not engaged in services for which he or she
15 was paid by a private employer, and the employee and his or
16 her public employer had no agreement providing for workers'
17 compensation coverage for that private employment,[†]
18
19 the employee is considered ~~shall be deemed~~ to have been acting
20 within the course of employment. The term "employee" as used
21 in this subsection ~~section~~ includes all certified supervisory
22 and command personnel whose duties include, in whole or in
23 part, responsibilities for the supervision, training,
24 guidance, and management of full-time law enforcement
25 officers, part-time law enforcement officers, or auxiliary law
26 enforcement officers but does not include support personnel
27 employed by the employing agency.
28 (2) If a firefighter as defined in s. 112.191(1)(b) is
29 engaged in extinguishing a fire, or protecting and saving life
30 or property due to a fire in this state in an emergency, and
31 such activities would be considered to be within the course of

1 his or her employment as a firefighter and covered by the
2 employer's workers' compensation coverage except for the fact
3 that the firefighter was off duty or that the location of the
4 fire was outside the employer's jurisdiction or area of
5 responsibility, such activities are considered to be within
6 the course of employment. This subsection does not apply if
7 the firefighter is performing activities for which he or she
8 is paid by another employer or contractor.

9 (3) If an emergency medical technician or paramedic
10 certified under chapter 401 is providing basic life support or
11 advanced life support service, as defined in s. 401.23, in an
12 emergency situation in this state, and such activities would
13 be considered to be within the course of his or her employment
14 as an emergency medical technician or paramedic and covered by
15 the employer's workers' compensation coverage except for the
16 fact that the location of the emergency was outside of the
17 employer's jurisdiction or area of responsibility, such
18 activities are considered to be within the course of
19 employment. The provisions of this subsection do not apply if
20 the emergency medical technician or paramedic is performing
21 activities for which he or she is paid by another employer or
22 contractor.

23 (4) Notwithstanding s. 440.092(2), an injury to a law
24 enforcement officer as defined in s. 943.10(1) during the
25 officer's work period or while going to or coming from work in
26 an official law enforcement vehicle shall be presumed to be an
27 injury arising out of and in the course of employment unless
28 the injury occurred during a distinct deviation for a
29 nonessential personal errand. If, however, the employer's
30 policy or the collective bargaining agreement that applies to
31 the officer permits such deviations for nonessential errands,

1 the injury shall be presumed to arise out of and in the course
2 of employment.

3 (5) Any law enforcement officer as defined in s.
4 943.10(1), (2), or (3) who, while acting within the course of
5 employment as provided by subsection (1), is maliciously or
6 intentionally injured and who thereby sustains a job-connected
7 disability compensable under this chapter shall be carried in
8 full-pay status rather than being required to use sick,
9 annual, or other leave. Full-pay status shall be granted only
10 after submission of a medical report to the employing agency's
11 head which gives a current diagnosis of the employee's
12 recovery and ability to return to work. In no case shall the
13 employee's salary and workers' compensation benefits exceed
14 the amount of the employee's regular salary requirements.

15 Section 6. Subsection (2) of section 440.092, Florida
16 Statutes, is amended to read:

17 440.092 Special requirements for compensability;
18 deviation from employment; subsequent intervening accidents.--

19 (2) GOING OR COMING.--Except as provided in s.
20 440.091(4), an injury suffered while going to or coming from
21 work is not an injury arising out of and in the course of
22 employment whether or not the employer provided transportation
23 if such means of transportation was available for the
24 exclusive personal use by the employee, unless the employee
25 was engaged in a special errand or mission for the employer.
26 ~~For the purposes of this subsection and notwithstanding any~~
27 ~~other provisions of law to the contrary, an injury to a law~~
28 ~~enforcement officer as defined in s. 943.10(1), during the~~
29 ~~officer's work period or while going to or coming from work in~~
30 ~~an official law enforcement vehicle, shall be presumed to be~~
31 ~~an injury arising out of and in the course of employment~~

1 ~~unless the injury occurred during a distinct deviation for a~~
2 ~~nonessential personal errand. If, however, the employer's~~
3 ~~policy or the collective bargaining agreement that applies to~~
4 ~~the officer permits such deviations for nonessential errands,~~
5 ~~the injury shall be presumed to arise out of and in the course~~
6 ~~of employment.~~

7 Section 7. It is declared by the Legislature that
8 firefighters perform state and municipal functions, that it is
9 their duty to protect life and property at their own risk and
10 peril, and that their activities are vital to the public
11 safety. Therefore, the Legislature declares that it fulfills
12 an important state interest to provide workers' compensation
13 coverage to firefighters while they are engaged in
14 extinguishing a fire, protecting and saving life or property
15 due to a fire in this state while off duty, or engaging in
16 such activities at a fire located outside the employer's
17 jurisdiction or area of responsibility. It is further
18 declared by the Legislature that emergency medical technicians
19 and paramedics perform municipal and state functions, that it
20 is their duty to protect and preserve life at their own risk
21 and peril, and that their activities are vital to the public
22 health, safety, and welfare. Therefore, the Legislature
23 declares that it fulfills an important state interest to
24 provide workers' compensation coverage to emergency medical
25 technicians and paramedics while they are engaged in basic
26 life support and advanced life support services due to an
27 emergency in this state that is outside of their employer's
28 jurisdiction or area of responsibility. Pursuant to Section
29 18, Article VII of the State Constitution, the Legislature
30 determines and declares that the provisions of this act
31 fulfill an important state interest.

1 Section 8. Paragraph (a) of subsection (1) of section
2 440.10, Florida Statutes, is amended to read:

3 440.10 Liability for compensation.--

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

15
16 A sole proprietor, partner, or officer of a corporation who
17 elects exemption from this chapter by filing a certificate of
18 election under s. 440.05 may not recover benefits or
19 compensation under this chapter. An independent contractor
20 who provides the general contractor with both an affidavit
21 stating that he or she meets the requirements of s.
22 440.02(14)(d) and a certificate of exemption is not an
23 employee under s. 440.02(14)(c) and may not recover benefits
24 under this chapter. For purposes of determining the
25 appropriate premium for workers' compensation coverage,
26 carriers may not consider any person who meets the
27 requirements of this paragraph to be an employee.

28 Section 9. Subsection (5) of section 440.107, Florida
29 Statutes, is amended, and subsection (12) is added to said
30 section, to read:

31

1 440.107 Division powers to enforce employer compliance
2 with coverage requirements.--

3 (5) Whenever the division determines that an employer
4 who is required to secure the payment to his or her employees
5 of the compensation provided for by this chapter has failed to
6 do so or that an employer has misrepresented to a carrier the
7 size or classification of the employer's payroll, such failure
8 or intentional misrepresentation shall be deemed an immediate
9 serious danger to public health, safety, or welfare sufficient
10 to justify service by the division of a stop-work order on the
11 employer, requiring the cessation of all business operations
12 at the place of employment or job site. The order shall take
13 effect upon the date of service upon the employer, unless the
14 employer provides evidence satisfactory to the division of
15 having secured any necessary insurance or self-insurance and
16 pays a civil penalty to the division, to be deposited by the
17 division into the Workers' Compensation Administration Trust
18 Fund, in the amount of \$100 per day for each day the employer
19 was not in compliance with this chapter.

20 (12) If the division finds that an employer who is
21 certified or registered under part I or part II of chapter 489
22 and who is required to secure payment of the compensation
23 provided for by this chapter to his or her employees has
24 failed to do so, the division shall immediately notify the
25 Department of Business and Professional Regulation.

26 Section 10. Subsection (1) of section 440.11, Florida
27 Statutes, is amended to read:

28 440.11 Exclusiveness of liability.--

29 (1) Except if an employer acts with the intent to
30 cause injury or death, the liability of an employer prescribed
31 in s. 440.10 shall be exclusive and in place of all other

1 liability, including any vicarious liability,of such employer
2 to any third-party tortfeasor and to the employee, the legal
3 representative thereof, husband or wife, parents, dependents,
4 next of kin, and anyone otherwise entitled to recover damages
5 from such employer at law or in admiralty on account of such
6 injury or death, except that if an employer fails to secure
7 payment of compensation in accordance with s. 440.38 ~~as~~
8 ~~required by this chapter~~, an injured employee, or the legal
9 representative thereof in case death results from the injury,
10 may elect to claim compensation under this chapter or to
11 maintain an action at law or in admiralty for damages on
12 account of such injury or death. In such action the defendant
13 may not plead as a defense that the injury was caused by
14 negligence of a fellow employee, that the employee assumed the
15 risk of the employment, or that the injury was due to the
16 comparative negligence of the employee. The same immunities
17 from liability enjoyed by an employer shall extend as well to
18 each employee of the employer when such employee is acting in
19 furtherance of the employer's business and the injured
20 employee is entitled to receive benefits under this chapter.
21 Such fellow-employee immunities shall not be applicable to an
22 employee who acts, with respect to a fellow employee, with
23 willful and wanton disregard or unprovoked physical aggression
24 or with gross negligence when such acts result in injury or
25 death or such acts proximately cause such injury or death, nor
26 shall such immunities be applicable to employees of the same
27 employer when each is operating in the furtherance of the
28 employer's business but they are assigned primarily to
29 unrelated works within private or public employment. The same
30 immunity provisions enjoyed by an employer shall also apply to
31 any sole proprietor, partner, corporate officer or director,

1 supervisor, or other person who in the course and scope of his
2 or her duties acts in a managerial or policymaking capacity
3 and the conduct that ~~which~~ caused the alleged injury arose
4 within the course and scope of said managerial or policymaking
5 duties and was not a violation of a law, whether or not a
6 violation was charged, for which the maximum penalty which may
7 be imposed does not exceed 60 days' imprisonment as set forth
8 in s. 775.082. The immunity from liability provided in this
9 subsection extends to county governments with respect to
10 employees of county constitutional officers whose offices are
11 funded by the board of county commissioners. "Intent" includes
12 only those actions or conduct of the employer where the
13 employer actually intended that the consequences of its
14 actions or conduct would be injury or death. Proof of intent
15 includes only evidence of a deliberate and knowing intent to
16 harm. If an employee recovers damages from an employer by
17 judgment or settlement under this subsection, the workers'
18 compensation carrier for the employer or the employer, if
19 self-insured, shall have an offset against any workers'
20 compensation benefits to which the employee would be entitled
21 under this chapter and a lien against recovery for any
22 benefits paid prior to the recovery pursuant to this chapter
23 after deduction for attorney's fees and costs expended by the
24 employee in prosecuting the claim against the employer.

25 Section 11. Paragraph (j) of subsection (1),
26 paragraphs (a), (b), (c), (e), and (f) of subsection (5), and
27 paragraph (b) of subsection (14) of section 440.13, Florida
28 Statutes, are amended to read:

29 440.13 Medical services and supplies; penalty for
30 violations; limitations.--

31 (1) DEFINITIONS.--As used in this section, the term:

1 (j) "Independent medical examiner" means a physician
2 selected by either an employee or a carrier to render one or
3 more independent medical examinations in connection with a
4 dispute arising under this chapter. Notwithstanding rules
5 adopted by the division, costs for independent medical
6 examinations shall be governed by this chapter.

7 (5) INDEPENDENT MEDICAL EXAMINATIONS.--

8 (a) In any dispute concerning overutilization, medical
9 benefits, compensability, or disability under this chapter,
10 the carrier or the employee may select an independent medical
11 examiner. If the parties agree, the examiner may be a health
12 care provider treating or providing other care to the
13 employee. An independent medical examiner may not render an
14 opinion outside his or her area of expertise, as demonstrated
15 by licensure and applicable practice parameters. Upon the
16 written request of the employee, the carrier shall pay the
17 cost of only one independent medical examination per accident.
18 The cost of an additional independent medical examination,
19 including the costs of an independent medical examiner's
20 deposition, shall be borne by the party requesting the
21 additional independent medical examination. Only the costs of
22 independent medical examinations and the costs of depositions
23 expressly relied upon by the judge of compensation claims to
24 award benefits in the final compensation order are taxable
25 costs under s. 440.34(3).

26 (b) ~~Each party is bound by his or her selection of an~~
27 ~~independent medical examiner and is entitled to an alternate~~
28 ~~examiner only if:~~

29 1. ~~The examiner is not qualified to render an opinion~~
30 ~~upon an aspect of the employee's illness or injury which is~~
31 ~~material to the claim or petition for benefits;~~

1 ~~2. The examiner ceases to practice in the specialty~~
2 ~~relevant to the employee's condition;~~

3 ~~3. The examiner is unavailable due to injury, death,~~
4 ~~or relocation outside a reasonably accessible geographic area;~~
5 ~~or~~

6 ~~4. The parties agree to an alternate examiner.~~

7
8 Any party may request, or a judge of compensation claims may
9 require, designation of a division medical advisor as an
10 independent medical examiner. The opinion of the advisors
11 acting as examiners shall not be afforded the presumption set
12 forth in paragraph (9)(c).

13 (c) The carrier may, at its election, contact the
14 claimant directly to schedule a reasonable time for an
15 independent medical examination. The carrier must confirm the
16 scheduling agreement in writing within 5 days and notify
17 claimant's counsel, if any, at least 7 days before the date
18 upon which the independent medical examination is scheduled to
19 occur. An attorney representing a claimant is not authorized
20 to schedule the self-insured employer's or the carrier's
21 independent medical evaluations under this subsection.

22 (e) No medical opinion other than the opinion of a
23 medical advisor appointed by the judge of compensation claims
24 or division, an independent medical examiner, or an authorized
25 treating provider is admissible in proceedings before the
26 judges of compensation claims. The employee and the carrier
27 may each submit into evidence, and the judge of compensation
28 claims shall admit, the medical opinion of not more than one
29 qualified independent medical examiner per specialty. In cases
30 involving occupational disease or repetitive trauma, medical
31 opinions are not admissible unless based on reliable

1 scientific principles sufficiently established to have gained
2 general acceptance in the pertinent area of specialty.

3 (f) Attorney's fees incurred by an injured employee in
4 connection with ~~delay of or opposition to~~ an independent
5 medical examination, including, but not limited to, motions
6 for protective orders, are not recoverable under this chapter.

7 (14) PAYMENT OF MEDICAL FEES.--

8 (b) Fees charged for remedial treatment, care, and
9 attendance may not exceed the applicable fee schedules adopted
10 under this chapter, except as provided pursuant to a contract
11 entered into between an employer or carrier and a certified
12 health care provider or health care facility for the payment
13 of medical services for covered expenses.

14 Section 12. 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

1 Section 13. Paragraph (a) of subsection (1) of section
2 440.14, Florida Statutes, is amended to read:

3 440.14 Determination of pay.--

4 (1) Except as otherwise provided in this chapter, the
5 average weekly wages of the injured employee on the date of
6 the accident, rather than on the date of disability ~~at the~~
7 ~~time of the injury~~ shall be taken as the basis upon which to
8 compute compensation and shall be determined, subject to the
9 limitations of s. 440.12(2), as follows:

10 (a) If the injured employee has worked in the
11 employment in which she or he was working at the time of the
12 injury, whether for the same or another employer, during
13 substantially the whole of 13 weeks immediately preceding the
14 injury, her or his average weekly wage shall be one-thirteenth
15 of the total amount of wages actually earned in such
16 employment during the 13 weeks. As used in this paragraph,
17 the term "substantially the whole of 13 weeks" means an actual
18 ~~shall be deemed to mean and refer to a constructive~~ period of
19 13 weeks as a whole, which shall be defined as the 13 complete
20 weeks before the date of the accident, excluding the week the
21 injury occurs. ~~a consecutive period of 91 days, and~~ The term
22 "during substantially the whole of 13 weeks" means ~~shall be~~
23 ~~deemed to mean~~ during not less than 90 percent of the total
24 customary ~~full-time~~ hours of employment within such period
25 considered as a whole. Raises received during the
26 aforementioned 13-week period are only to be factored into the
27 average weekly wage from the actual date the raise became
28 effective.

29 Section 14. Paragraphs (b) and (f) of subsection (1),
30 paragraph (a) of subsection (3), and subsection (12) of
31 section 440.15, Florida Statutes, are amended to read:

1 440.15 Compensation for disability.--Compensation for
2 disability shall be paid to the employee, subject to the
3 limits provided in s. 440.12(2), as follows:

4 (1) PERMANENT TOTAL DISABILITY.--

5 (b) Any compensable injury eligible for permanent
6 total disability benefits must be of a nature and severity
7 that prevents the employee from being able to perform at least
8 sedentary employment. If the employee is engaged in or is
9 capable of being engaged in at least sedentary employment, he
10 or she is not entitled to permanent total disability benefits.
11 The burden is on the employee to establish that he or she is
12 unable to perform even sedentary work if such work is
13 available within a 50-mile radius of the employee's residence
14 or such greater distance as the judge determines to be
15 reasonable under the circumstances. Such benefits shall be
16 payable until the employee reaches the age of 72.

17 Notwithstanding any age limit, if the accident occurred on or
18 after the employee reaches the age of 65, benefits shall be
19 payable during the continuance of permanent total disability,
20 not to exceed 7 years following the determination of permanent
21 total disability. In addition, ~~only~~ a catastrophic injury as
22 defined in s. 440.02 shall, in the absence of conclusive proof
23 of a substantial earning capacity, constitute permanent total
24 disability. ~~Only claimants with catastrophic injuries are~~
25 ~~eligible for permanent total benefits.~~In no other case may
26 permanent total disability benefits be awarded.

27 (f)1. If permanent total disability results from
28 injuries that occurred subsequent to June 30, 1955, and for
29 which the liability of the employer for compensation has not
30 been discharged under s. 440.20(11), the injured employee
31 shall receive additional weekly compensation benefits equal to

1 5 percent of her or his weekly compensation rate, as
2 established pursuant to the law in effect on the date of her
3 or his injury, multiplied by the number of calendar years
4 since the date of injury. The weekly compensation payable and
5 the additional benefits payable under this paragraph, when
6 combined, may not exceed the maximum weekly compensation rate
7 in effect at the time of payment as determined pursuant to s.
8 440.12(2). Entitlement to these supplemental payments shall
9 not be paid or payable after ~~cease at~~ age 62 ~~if the employee~~
10 ~~is eligible for social security benefits under 42 U.S.C. ss.~~
11 ~~402 and 423~~, whether or not the employee has applied for or is
12 ineligible to apply for social security benefits under 42
13 U.S.C. s. 402 or s. 423 ~~such benefits~~. These supplemental
14 benefits shall be paid by the division out of the Workers'
15 Compensation Administration Trust Fund when the injury
16 occurred subsequent to June 30, 1955, and before July 1, 1984.
17 These supplemental benefits shall be paid by the employer when
18 the injury occurred on or after July 1, 1984. Supplemental
19 benefits are not payable for any period prior to October 1,
20 1974.

21 2.a. The division shall provide by rule for the
22 periodic reporting to the division of all earnings of any
23 nature and social security income by the injured employee
24 entitled to or claiming additional compensation under
25 subparagraph 1. Neither the division nor the employer or
26 carrier shall make any payment of those additional benefits
27 provided by subparagraph 1. for any period during which the
28 employee willfully fails or refuses to report upon request by
29 the division in the manner prescribed by such rules.

30 b. The division shall provide by rule for the periodic
31 reporting to the employer or carrier of all earnings of any

1 nature and social security income by the injured employee
2 entitled to or claiming benefits for permanent total
3 disability. The employer or carrier is not required to make
4 any payment of benefits for permanent total disability for any
5 period during which the employee willfully fails or refuses to
6 report upon request by the employer or carrier in the manner
7 prescribed by such rules or if any employee who is receiving
8 permanent total disability benefits refuses to apply for or
9 cooperate with the employer or carrier in applying for social
10 security benefits.

11 3. When an injured employee receives a full or partial
12 lump-sum advance of the employee's permanent total disability
13 compensation benefits, the employee's benefits under this
14 paragraph shall be computed on the employee's weekly
15 compensation rate as reduced by the lump-sum advance.

16 (3) PERMANENT IMPAIRMENT ~~AND WAGE-LOSS~~ BENEFITS.--

17 (a) Impairment benefits.--

18 1. Once the employee has reached the date of maximum
19 medical improvement, impairment benefits are due and payable
20 within 20 days after the carrier has knowledge of the
21 impairment.

22 2. The three-member panel, in cooperation with the
23 division, shall establish and use a uniform permanent
24 impairment rating schedule. This schedule must be based on
25 medically or scientifically demonstrable findings as well as
26 the systems and criteria set forth in the American Medical
27 Association's Guides to the Evaluation of Permanent
28 Impairment; the Snellen Charts, published by American Medical
29 Association Committee for Eye Injuries; and the Minnesota
30 Department of Labor and Industry Disability Schedules. The
31 schedule should be based upon objective findings. The schedule

1 shall be more comprehensive than the AMA Guides to the
2 Evaluation of Permanent Impairment and shall expand the areas
3 already addressed and address additional areas not currently
4 contained in the guides. On August 1, 1979, and pending the
5 adoption, by rule, of a permanent schedule, Guides to the
6 Evaluation of Permanent Impairment, copyright 1977, 1971,
7 1988, by the American Medical Association, shall be the
8 temporary schedule and shall be used for the purposes hereof.
9 For injuries after July 1, 1990, pending the adoption by
10 division rule of a uniform disability rating schedule, the
11 Minnesota Department of Labor and Industry Disability Schedule
12 shall be used unless that schedule does not address an injury.
13 In such case, the Guides to the Evaluation of Permanent
14 Impairment by the American Medical Association shall be used.
15 Determination of permanent impairment under this schedule must
16 be made by a physician licensed under chapter 458, a doctor of
17 osteopathic medicine licensed under chapters 458 and 459, a
18 chiropractic physician licensed under chapter 460, a podiatric
19 physician licensed under chapter 461, an optometrist licensed
20 under chapter 463, or a dentist licensed under chapter 466, as
21 appropriate considering the nature of the injury. No other
22 persons are authorized to render opinions regarding the
23 existence of or the extent of permanent impairment.

24 3. All impairment income benefits shall be based on an
25 impairment rating using the impairment schedule referred to in
26 subparagraph 2. Impairment income benefits are paid biweekly
27 ~~weekly~~ at ~~a the~~ rate equal to 100 of 50 percent of the
28 employee's compensation rate, ~~average weekly temporary total~~
29 ~~disability benefit~~ not to exceed the maximum weekly benefit
30 under s. 440.12. An employee's entitlement to impairment
31 income benefits begins the day after the employee reaches

1 maximum medical improvement or the expiration of temporary
2 benefits, whichever occurs earlier, and continues until the
3 earlier of:

4 a. The expiration of a period computed at the rate of
5 3 weeks for each percentage point of impairment; or
6 b. The death of the employee.

7 4. After the employee has been certified by a doctor
8 as having reached maximum medical improvement or 6 weeks
9 before the expiration of temporary benefits, whichever occurs
10 earlier, the certifying doctor shall evaluate the condition of
11 the employee and assign an impairment rating, using the
12 impairment schedule referred to in subparagraph 2.
13 Compensation is not payable for the mental, psychological, or
14 emotional injury arising out of depression from being out of
15 work. If the certification and evaluation are performed by a
16 doctor other than the employee's treating doctor, the
17 certification and evaluation must be submitted to the treating
18 doctor, and the treating doctor must indicate agreement or
19 disagreement with the certification and evaluation. The
20 certifying doctor shall issue a written report to the
21 division, the employee, and the carrier certifying that
22 maximum medical improvement has been reached, stating the
23 impairment rating, and providing any other information
24 required by the division. If the employee has not been
25 certified as having reached maximum medical improvement before
26 the expiration of 102 weeks after the date temporary total
27 disability benefits begin to accrue, the carrier shall notify
28 the treating doctor of the requirements of this section.

29 5. The carrier shall pay the employee impairment
30 income benefits for a period based on the impairment rating.
31

1 6. The division may by rule specify forms and
2 procedures governing the method of payment of wage loss and
3 impairment benefits for dates of accidents before January 1,
4 1994, and for dates of accidents on or after January 1, 1994.

5 (12) FULL-PAY STATUS FOR CERTAIN LAW ENFORCEMENT
6 OFFICERS.--Law enforcement officers as defined in s.
7 943.10(1), (2), or (3) shall be paid in accordance with s.
8 440.091(5).~~Any law enforcement officer as defined in s.~~
9 ~~943.10(1), (2), or (3) who, while acting within the course of~~
10 ~~employment as provided by s. 440.091, is maliciously or~~
11 ~~intentionally injured and who thereby sustains a job-connected~~
12 ~~disability compensable under this chapter shall be carried in~~
13 ~~full-pay status rather than being required to use sick,~~
14 ~~annual, or other leave. Full-pay status shall be granted only~~
15 ~~after submission to the employing agency's head of a medical~~
16 ~~report which gives a current diagnosis of the employee's~~
17 ~~recovery and ability to return to work. In no case shall the~~
18 ~~employee's salary and workers' compensation benefits exceed~~
19 ~~the amount of the employee's regular salary requirements.~~

20 Section 15. Section 440.191, Florida Statutes, is
21 amended to read:

22 440.191 Employee Assistance and Ombudsman Office.--

23 (1)(a) In order to effect the self-executing features
24 of the Workers' Compensation Law, this chapter shall be
25 construed to permit injured employees and employers or the
26 employer's carrier to resolve disagreements without undue
27 expense, costly litigation, or delay in the provisions of
28 benefits. It is the duty of all who participate in the
29 workers' compensation system, including, but not limited to,
30 carriers, service providers, health care providers, managed
31 care arrangements, attorneys, employers, and employees, to

1 attempt to resolve disagreements in good faith and to
2 cooperate with the division's efforts to resolve disagreements
3 between the parties. The division may by rule prescribe
4 definitions ~~that are~~ necessary for the effective
5 administration of this section.

6 (b) An Employee Assistance and Ombudsman Office is
7 created within the Division of Workers' Compensation to inform
8 and assist injured workers, employers, carriers, ~~and~~ health
9 care providers, and managed care arrangements in fulfilling
10 their responsibilities under this chapter. The division may by
11 rule specify forms and procedures for administering ~~requests~~
12 ~~for assistance provided by~~ this section.

13 (c) The Employee Assistance and Ombudsman Office,
14 ~~Division of Workers' Compensation,~~ shall be a resource
15 available to all employees who participate in the workers'
16 compensation system and shall take all steps necessary to
17 educate and disseminate information to employees and
18 employers. Upon receiving a notice of injury or death, the
19 Employee Assistance and Ombudsman Office is authorized to
20 initiate contact with the injured employee or the employee's
21 representative to discuss rights and responsibilities of the
22 employee under this chapter and the services available through
23 the Employee Assistance and Ombudsman Office.

24 (2)(a) ~~An employee may not file a petition requesting~~
25 ~~any benefit under this chapter unless the employee has~~
26 ~~exhausted the procedures for informal dispute resolution under~~
27 ~~this section.~~

28 (a)~~(b)~~ If at any time the employer or its carrier
29 fails to provide benefits to which the employee believes she
30 or he is entitled, the employee shall contact the office to
31 request assistance in resolving the dispute. The office may

1 review petitions for benefits filed under s. 440.192 and may
2 ~~shall investigate the dispute and shall~~ attempt to facilitate
3 an agreement between the employee and the employer or carrier.
4 The employee, the employer, and the carrier shall cooperate
5 with the office and shall timely provide the office with any
6 documents or other information that it may require in
7 connection with its efforts under this section.

8 (b)~~(c)~~ The office may compel parties to attend
9 conferences in person or by telephone in an attempt to resolve
10 disputes quickly and in the most efficient manner possible.
11 Settlement agreements resulting from such conferences must be
12 submitted to the Office of the Judges of Compensation Claims
13 for approval.

14 (c)~~(d)~~ The Employee Assistance and Ombudsman Office
15 may assign an ombudsman to assist the employee in resolving
16 the dispute. ~~If the dispute is not resolved within 30 days~~
17 ~~after the employee contacts the office,~~The ombudsman shall,
18 at the employee's request, assist the employee in drafting a
19 petition for benefits and explain the procedures for filing
20 petitions. ~~The division may by rule determine the method used~~
21 ~~to calculate the 30-day period.~~The Employee Assistance and
22 Ombudsman Office may not represent employees before the judges
23 of compensation claims. An employer or carrier may not pay any
24 attorneys' fees on behalf of the employee for services
25 rendered or costs incurred in connection with this section,
26 unless expressly authorized elsewhere in this chapter.

27 Section 16. Subsections (2), (5), and (8) of section
28 440.192, Florida Statutes, are amended, and a new subsection
29 (9) is added to said section, to read:

30 440.192 Procedure for resolving benefit disputes.--
31

1 (2) Upon receipt of a petition, the Office of the
2 Judges of Compensation Claims or the judge of compensation
3 claims may ~~shall review each petition and shall~~ dismiss each
4 petition or any portion of such a petition, upon the judge's
5 own motion or upon the motion of any party, which ~~that~~ does
6 not on its face specifically identify or itemize the
7 following:

8 (a) Name, address, telephone number, and social
9 security number of the employee.

10 (b) Name, address, and telephone number of the
11 employer.

12 (c) A detailed description of the injury and cause of
13 the injury, including the location of the occurrence and the
14 date or dates of the accident.

15 (d) A detailed description of the employee's job, work
16 responsibilities, and work the employee was performing when
17 the injury occurred.

18 (e) The time period for which compensation and the
19 specific classification of compensation were not timely
20 provided.

21 (f) Date of maximum medical improvement, character of
22 disability, and specific statement of all benefits or
23 compensation that the employee is seeking.

24 (g) All specific travel costs to which the employee
25 believes she or he is entitled, including dates of travel and
26 purpose of travel, means of transportation, and mileage and
27 including the date the request for mileage was filed with the
28 carrier and a copy of the request filed with the carrier.

29 (h) Specific listing of all medical charges alleged
30 unpaid, including the name and address of the medical
31

1 provider, the amounts due, and the specific dates of
2 treatment.

3 (i) The type or nature of treatment care or attendance
4 sought and the justification for such treatment. If the
5 employee is under the care of a physician for the injury
6 identified in paragraph (c), a copy of the physician's
7 request, authorization, or recommendation for treatment, care,
8 or attendant care must accompany the petition.

9 (j) Specific explanation of any other disputed issue
10 that a judge of compensation claims will be called to rule
11 upon.

12 (k) Any other information and documentation the Deputy
13 Chief Judge may require by rule.

14
15 The dismissal of any petition or portion of such a petition
16 under this section is without prejudice and does not require a
17 hearing.

18 (5) All motions to dismiss must state with
19 particularity the basis for the motion. The judge of
20 compensation claims shall enter an order upon such motions
21 without hearing, unless good cause for hearing is shown. When
22 any petition or portion of a petition is dismissed for lack of
23 specificity under this subsection, the claimant must file
24 within ~~be allowed~~ 20 days after the date of the order of
25 dismissal in which to file an amended petition. Any grounds
26 for dismissal for lack of specificity under this section which
27 are not asserted within 60 ~~30~~ days after receipt of the
28 petition for benefits are thereby waived.

29 (8) Within 30 ~~14~~ days after receipt of a petition for
30 benefits by certified mail, the carrier must either pay the
31 requested benefits without prejudice to its right to deny

1 within 120 days ~~after~~ ~~from~~ receipt of the petition or file a
2 response to petition with the Office of the Judges of
3 Compensation Claims. The carrier must list all benefits
4 requested but not paid and explain its justification for
5 nonpayment in the response to petition. A carrier that does
6 not deny compensability in accordance with s. 440.20(4) is
7 deemed to have accepted the employee's injuries as
8 compensable, unless it can establish material facts relevant
9 to the issue of compensability that could not have been
10 discovered through reasonable investigation within the 120-day
11 period. The carrier shall provide copies of the response to
12 the filing party, employer, and claimant by certified mail.

13 (9) Unless stipulated in writing by the parties, only
14 claims that have been properly raised by a petition for
15 benefits and have undergone mediation may be considered for
16 adjudication by a judge of compensation claims.

17 Section 17. Paragraph (c) of subsection (11) of
18 section 440.20, Florida Statutes, is amended to read:

19 440.20 Time for payment of compensation; penalties for
20 late payment.--

21 (11)

22 (c) Notwithstanding s. 440.21(2), when a claimant is
23 represented by counsel, the claimant may waive all rights to
24 any and all benefits under this chapter by entering into a
25 settlement agreement releasing the employer and the carrier
26 from liability for workers' compensation benefits in exchange
27 for a lump-sum payment to the claimant. The settlement
28 agreement requires approval by the judge of compensation
29 claims only as to the attorney's fees paid to the claimant's
30 attorney by the claimant. The judge of compensation claims
31 shall not approve settlement proposals, including any

1 stipulations or agreements between the parties or between a
2 claimant and his or her attorney related to the settlement
3 proposal, which provide for attorney's fees in excess of the
4 amount permitted in s. 440.34.The parties need not submit any
5 information or documentation in support of the settlement,
6 except as needed to justify the amount of the attorney's fees.
7 Neither the employer nor the carrier is responsible for any
8 attorney's fees relating to the settlement and release of
9 claims under this section. Payment of the lump-sum settlement
10 amount must be made within 14 days after the date the judge of
11 compensation claims mails the order approving the attorney's
12 fees. Any order entered by a judge of compensation claims
13 approving the attorney's fees as set out in the settlement
14 under this subsection is not considered to be an award and is
15 not subject to modification or review. The judge of
16 compensation claims shall report these settlements to the
17 Deputy Chief Judge in accordance with the requirements set
18 forth in paragraphs (a) and (b). Settlements entered into
19 under this subsection are valid and apply to all dates of
20 accident.

21 Section 18. Subsections (1), (3), and (4) of section
22 440.25, Florida Statutes, are amended to read:

23 440.25 Procedures for mediation and hearings.--

24 (1) Within 90 ~~21~~ days after a petition for benefits is
25 filed under s. 440.192, a mediation conference concerning such
26 petition shall be held. Within 40 ~~7~~ days after such petition
27 is filed, the judge of compensation claims shall notify the
28 interested parties by order that a mediation conference
29 concerning such petition will be held unless the parties have
30 notified the Office of the Judges of Compensation Claims that
31 a mediation has been held. Such order ~~notice~~ shall give the

1 date by which, ~~time, and location of~~ the mediation conference
2 must be held. Such order ~~notice~~ may be served personally upon
3 the interested parties or may be sent to the interested
4 parties by mail. Continuances may be granted only if the
5 requesting party demonstrates to the judge of compensation
6 claims that the reason for requesting the continuance arises
7 from circumstances beyond the party's control. Any order
8 granting a continuance must set forth the date of the
9 rescheduled mediation conference. A mediation conference may
10 not be used solely for the purpose of mediating attorney's
11 fees.The claimant or the adjuster of the employer or carrier
12 may, at the mediator's discretion, attend the mediation
13 conference by telephone or, if agreed to by the parties, other
14 electronic means.

15 (3)(a) Such mediation conference shall be conducted
16 informally and shall ~~does~~ not require the use of formal rules
17 of evidence or procedure. Any information from the files,
18 reports, case summaries, mediator's notes, or other
19 communications or materials, oral or written, relating to a
20 mediation conference under this section obtained by any person
21 performing mediation duties is privileged and confidential and
22 may not be disclosed without the written consent of all
23 parties to the conference. Any research or evaluation effort
24 directed at assessing the mediation program activities or
25 performance must protect the confidentiality of such
26 information. Each party to a mediation conference has a
27 privilege during and after the conference to refuse to
28 disclose and to prevent another from disclosing communications
29 made during the conference whether or not the contested issues
30 are successfully resolved. This subsection and paragraphs
31 (4)(a) and (b) shall not be construed to prevent or inhibit

1 the discovery or admissibility of any information that is
2 otherwise subject to discovery or that is admissible under
3 applicable law or rule of procedure, except that any conduct
4 or statements made during a mediation conference or in
5 negotiations concerning the conference are inadmissible in any
6 proceeding under this chapter.

7 (b)1. Unless the parties conduct a private mediation
8 under subparagraph 2., mediation shall be conducted by a
9 mediator selected by the Director of the Division of
10 Administrative Hearings from among the mediators ~~shall select~~
11 ~~a mediator. The mediator shall be~~ employed on a full-time
12 basis by the Office of the Judges of Compensation Claims. A
13 mediator must be a member of The Florida Bar for at least 5
14 years and must complete a mediation training program approved
15 by the Director of the Division of Administrative Hearings.
16 Adjunct mediators may be employed by the Office of the Judges
17 of Compensation Claims on an as-needed basis and shall be
18 selected from a list prepared by the Director of the Division
19 of Administrative Hearings. An adjunct mediator must be
20 independent of all parties participating in the mediation
21 conference. An adjunct mediator must be a member of The
22 Florida Bar for at least 5 years and must complete a mediation
23 training program approved by the Director of the Division of
24 Administrative Hearings. An adjunct mediator shall have
25 access to the office, equipment, and supplies of the judge of
26 compensation claims in each district.

27 2. In the event the parties agree or in the event no
28 mediators as provided under subparagraph 1. are available to
29 conduct the required mediation within the period specified in
30 this section, the parties shall hold a mediation conference at
31 the carrier's expense within the 90-day period set for

1 mediation. The mediation conference shall be conducted by a
2 mediator who is a member in good standing of The Florida Bar
3 with not less than 5 years' experience in the practice of law
4 in this state and who is certified under s. 44.106. If the
5 parties do not agree upon a mediator within 10 days after the
6 date of the order, the claimant shall notify the judge of
7 compensation claims in writing and the judge of compensation
8 claims shall appoint a mediator under this subparagraph within
9 7 days.In the event both parties agree, the results of the
10 mediation conference shall be binding and neither party shall
11 have a right to appeal the results. In the event either party
12 refuses to agree to the results of the mediation conference,
13 the results of the mediation conference as well as the
14 testimony, witnesses, and evidence presented at the conference
15 shall not be admissible at any subsequent proceeding on the
16 claim. The mediator shall not be called in to testify or give
17 deposition to resolve any claim for any hearing before the
18 judge of compensation claims. The employer may be represented
19 by an attorney at the mediation conference if the employee is
20 also represented by an attorney at the mediation conference.

21 (c) The parties shall make a good faith effort to
22 complete the pretrial stipulations before the conclusion of
23 the mediation conference if the claims, except for attorney's
24 fees and costs, have not been settled and if any claims in any
25 filed petition remain unresolved. The judge of compensation
26 claims may sanction a party or both parties for failure to
27 complete the pretrial stipulations before the conclusion of
28 the mediation conference.

29 (4)(a) If the parties fail to submit written pretrial
30 stipulations at the mediation conference, ~~on the 10th day~~
31 following commencement of mediation, the questions in dispute

1 ~~have not been resolved~~, the judge of compensation claims shall
2 order hold a pretrial hearing to occur within 14 days after
3 the date of mediation ordered by the judge of compensation
4 claims. The judge of compensation claims shall give the
5 interested parties at least 7 days' advance notice of the
6 pretrial hearing by mail. At the pretrial hearing, the judge
7 of compensation claims shall, subject to paragraph (b), set a
8 date for the final hearing that allows the parties at least 60
9 ~~30~~ days to conduct discovery unless the parties consent to an
10 earlier hearing date.

11 (b) The final hearing must be held and concluded
12 within 90 ~~45~~ days after the mediation conference is held
13 ~~pretrial hearing~~. Continuances may be granted only if the
14 requesting party demonstrates to the judge of compensation
15 claims that the reason for requesting the continuance arises
16 from circumstances beyond the party's control. Any order
17 granting a continuance must set forth the date and time of the
18 rescheduled hearing. If a judge of compensation claims grants
19 two or more continuances to a requesting party, the judge of
20 compensation claims shall report such continuances to the
21 Deputy Chief Judge. The written consent of the claimant must
22 be obtained before any request from a claimant's attorney is
23 granted for an additional continuance after the initial
24 continuance has been granted.

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

28 (d) The final hearing shall be held within 210 days
29 after receipt of the petition for benefits in the county where
30 the injury occurred, if the injury occurred in this state,
31 unless otherwise agreed to between the parties and authorized

1 by the judge of compensation claims in the county where the
2 injury occurred. If the injury occurred outside ~~without~~ the
3 state and is one for which compensation is payable under this
4 chapter, then the final hearing ~~above referred to~~ may be held
5 in the county of the employer's residence or place of
6 business, or in any other county of the state that ~~which~~ will,
7 in the discretion of the Deputy Chief Judge, be the most
8 convenient for a hearing. The final hearing shall be conducted
9 by a judge of compensation claims, who shall, within 30 days
10 after final hearing or closure of the hearing record, unless
11 otherwise agreed by the parties, enter a final order on the
12 merits of the disputed issues. The judge of compensation
13 claims may enter an abbreviated final order in cases in which
14 compensability is not disputed. Either party may request
15 separate findings of fact and conclusions of law. At the final
16 ~~such~~ hearing, the claimant and employer may each present
17 evidence in respect of the claims presented by the petition
18 for benefits ~~such claim~~ and may be represented by any attorney
19 authorized in writing for such purpose. When there is a
20 conflict in the medical evidence submitted at the hearing, the
21 provisions of s. 440.13 shall apply. The report or testimony
22 of the expert medical advisor shall be made a part of the
23 record of the proceeding and shall be given the same
24 consideration by the judge of compensation claims as is
25 accorded other medical evidence submitted in the proceeding;
26 and all costs incurred in connection with such examination and
27 testimony may be assessed as costs in the proceeding, subject
28 to the provisions of s. 440.13. No judge of compensation
29 claims may make a finding of a degree of permanent impairment
30 that is greater than the greatest permanent impairment rating
31 given the claimant by any examining or treating physician,

1 except upon stipulation of the parties. Any benefit due but
2 not raised at the final hearing which was ripe, due, or owing
3 at the time of the final hearing is waived.

4 (e) The order making an award or rejecting the claim,
5 referred to in this chapter as a "compensation order," shall
6 set forth the findings of ultimate facts and the mandate; and
7 the order need not include any other reason or justification
8 for such mandate. The compensation order shall be filed in the
9 Office of the Judges of Compensation Claims at Tallahassee. A
10 copy of such compensation order shall be sent by mail to the
11 parties and attorneys of record at the last known address of
12 each, with the date of mailing noted thereon.

13 (f) Each judge of compensation claims is required to
14 submit a special report to the Deputy Chief Judge in each
15 contested workers' compensation case in which the case is not
16 determined within 30 days of final hearing or closure of the
17 hearing record. Said form shall be provided by the director of
18 the Division of Administrative Hearings and shall contain the
19 names of the judge of compensation claims and of the attorneys
20 involved and a brief explanation by the judge of compensation
21 claims as to the reason for such a delay in issuing a final
22 order.

23 (g) Notwithstanding any other provision of this
24 section, the judge of compensation claims may require the
25 appearance of the parties and counsel before her or him
26 without written notice for an emergency conference where there
27 is a bona fide emergency involving the health, safety, or
28 welfare of an employee. An emergency conference under this
29 section may result in the entry of an order or the rendering
30 of an adjudication by the judge of compensation claims.

31

1 (h) To expedite dispute resolution and to enhance the
2 self-executing features of the Workers' Compensation Law, the
3 Deputy Chief Judge shall make provision by rule or order for
4 the resolution of appropriate motions by judges of
5 compensation claims without oral hearing upon submission of
6 brief written statements in support and opposition, and for
7 expedited discovery and docketing. Unless the judge of
8 compensation claims orders a hearing under paragraph (i),
9 claims related to the determination of pay under s. 440.14
10 shall be resolved under this paragraph.

11 (i) To further expedite dispute resolution and to
12 enhance the self-executing features of the system, those
13 petitions filed in accordance with s. 440.192 that involve a
14 claim for benefits of \$5,000 or less shall, in the absence of
15 compelling evidence to the contrary, be presumed to be
16 appropriate for expedited resolution under this paragraph; and
17 any other claim filed in accordance with s. 440.192, upon the
18 written agreement of both parties and application by either
19 party, may similarly be resolved under this paragraph. Claims
20 in a petition for medical benefits only of \$5,000 or less or
21 for medical mileage reimbursement shall, in the absence of
22 compelling evidence to the contrary, be resolved through the
23 expedited dispute resolution process under this paragraph.For
24 purposes of expedited resolution pursuant to this paragraph,
25 the Deputy Chief Judge shall make provision by rule or order
26 for expedited and limited discovery and expedited docketing in
27 such cases. At least 15 days prior to hearing, the parties
28 shall exchange and file with the judge of compensation claims
29 a pretrial outline of all issues, defenses, and witnesses on a
30 form adopted by the Deputy Chief Judge; provided, in no event
31 shall such hearing be held without 15 days' written notice to

1 all parties. No pretrial hearing shall be held. The judge of
2 compensation claims shall limit all argument and presentation
3 of evidence at the hearing to a maximum of 30 minutes, and
4 such hearings shall not exceed 30 minutes in length. Neither
5 party shall be required to be represented by counsel. The
6 employer or carrier may be represented by an adjuster or other
7 qualified representative. The employer or carrier and any
8 witness may appear at such hearing by telephone. The rules of
9 evidence shall be liberally construed in favor of allowing
10 introduction of evidence.

11 (j) A judge of compensation claims, either upon the
12 motion of a party or its own motion, may dismiss a petition
13 for lack of prosecution if no petitions, responses, motions,
14 orders, requests for hearings, or notices of deposition have
15 been filed for a period of 12 months, unless good cause is
16 shown. Dismissals for lack of prosecution are without
17 prejudice and do not require a hearing.

18 (k) Regardless of the date benefits were initially
19 requested, attorney's fees do not attach under this subsection
20 until 30 days after the date the carrier or employer, if
21 self-insured, receives the petition.

22 Section 19. Effective July 1, 2002, section 440.271,
23 Florida Statutes, is amended to read:

24 440.271 Appeal of order of judge of compensation
25 claims.--

26 (1) Review of any order of a judge of compensation
27 claims entered pursuant to this chapter shall be by appeal to
28 the district court of appeal, First District. Appeals shall
29 be filed in accordance with rules of procedure prescribed by
30 the Supreme Court for review of such orders. The division
31 shall be given notice of any proceedings pertaining to s.

1 440.25, regarding indigency, or s. 440.49, regarding the
2 Special Disability Trust Fund, and shall have the right to
3 intervene in any proceedings.

4 (2) The parties shall hold a mediation conference at
5 the carrier's expense within 60 days after the filing of the
6 notice of appeal of a final order from a judge of compensation
7 claims. The mediation conference shall be conducted by a
8 mediator with experience in appellate mediation or who is
9 certified under s. 44.106. The appellate proceeding and the
10 preparation of the record shall be stayed until the completion
11 of the mediation conference required by this section.

12 (3) The parties and their counsel may, at the
13 mediator's discretion, attend the mediation conference by
14 telephone or, if agreed to by the parties, other electronic
15 means. A continuance may be granted only if the requesting
16 party demonstrates to the judge that the reason for the
17 continuance arises from circumstances beyond the party's
18 control. Any continuance must set forth the date of the
19 rescheduled mediation conference, and must be rescheduled to
20 be completed within 90 days after the filing of the notice of
21 appeal. Mediation conferences under this section may not be
22 used solely for the purpose of mediating attorney's fees.

23 (4) Such appellate mediation conferences shall be
24 conducted informally and shall not require the use of formal
25 rules of evidence or procedure. Any information from the
26 files, reports, case summaries, mediator's notes, or
27 communications or materials, oral or written, relating to a
28 mediation conference under this section obtained by any person
29 performing mediation duties is privileged and confidential and
30 may not be disclosed without the written consent of all
31 parties to the conference. Any research or evaluation effort

1 directed at assessing the mediation program, activities, or
2 performance must protect the confidentiality of such
3 information. Each party to a mediation conference has a
4 privilege during and after the conference to refuse to
5 disclose and to prevent another from disclosing communications
6 made during the conference whether or not the contested issues
7 are successfully resolved. This subsection shall not be
8 construed to prevent or inhibit the discovery or admissibility
9 of any information that is otherwise subject to discovery or
10 that is admissible under applicable law or rules of procedure,
11 except that any conduct or statements made during a mediation
12 conference or in negotiations concerning the conference are
13 inadmissible in any proceeding under this chapter.

14 (5) If the issues which are the subject of the appeal
15 are not resolved by the parties, the appellant shall notify
16 the judge of compensation claims that the appeal needs to
17 proceed forward and the record on appeal needs to be prepared.

18 Section 20. Subsection (4) of section 440.29, Florida
19 Statutes, is amended to read:

20 440.29 Procedure before the judge of compensation
21 claims.--

22 (4) All medical reports of authorized treating health
23 care providers or independent medical examiners whose medical
24 opinion is submitted under s. 440.13(5)(e)relating to the
25 claimant and subject accident shall be received into evidence
26 by the judge of compensation claims upon proper motion.
27 However, such records must be served on the opposing party at
28 least 30 days before the final hearing. This section does not
29 limit any right of further discovery, including, but not
30 limited to, depositions.

31

1 Section 21. Subsections (1) and (3) of section 440.34,
2 Florida Statutes, are amended, and subsection (7) is added to
3 said section, to read:

4 440.34 Attorney's fees; costs.--

5 (1) A fee, gratuity, or other consideration may not be
6 paid for services rendered for a claimant in connection with
7 any proceedings arising under this chapter, unless approved as
8 reasonable by the judge of compensation claims or court having
9 jurisdiction over such proceedings. Except as provided by this
10 subsection, any attorney's fee approved by a judge of
11 compensation claims for services rendered to a claimant must
12 equal to 20 percent of the first \$5,000 of the amount of the
13 benefits secured, 15 percent of the next \$5,000 of the amount
14 of the benefits secured, 10 percent of the remaining amount of
15 the benefits secured to be provided during the first 10 years
16 after the date the claim is filed, and 5 percent of the
17 benefits secured after 10 years. In the case of petitions for
18 medical benefits only ~~However~~, the judge of compensation
19 claims may approve an additional ~~shall consider the following~~
20 ~~factors in each case and may increase or decrease the~~
21 attorney's fee not to exceed \$1,500 per accident based on a
22 reasonable hourly rate, if the judge of compensation claims
23 expressly finds that the attorney's fee, based on benefits
24 secured, fails to fairly compensate the attorney and the
25 circumstances of the particular case warrant such action. In
26 proceedings under paragraph (3)(c), the judge of compensation
27 claims may approve a contingency-based attorney's fee as
28 described in this subsection or an attorney's fee not to
29 exceed \$1,500 based on a reasonable hourly rate, whichever is
30 greater, if the judge of compensation claims expressly finds
31 that the attorney's fee, based on benefits secured, fails to

1 fairly compensate the attorney and ~~if, in her or his judgment,~~
2 the circumstances of the particular case warrant such action.

3
4 The judge of compensation claims shall not approve a
5 compensation order, a joint stipulation for a lump-sum
6 settlement, a stipulation or agreement between a claimant and
7 his or her attorney, or any other agreement related to
8 benefits under this chapter that provides for an attorney's
9 fee in excess of the amount permitted by this section.†

10 ~~(a) The time and labor required, the novelty and~~
11 ~~difficulty of the questions involved, and the skill requisite~~
12 ~~to perform the legal service properly.~~

13 ~~(b) The fee customarily charged in the locality for~~
14 ~~similar legal services.~~

15 ~~(c) The amount involved in the controversy and the~~
16 ~~benefits resulting to the claimant.~~

17 ~~(d) The time limitation imposed by the claimant or the~~
18 ~~circumstances.~~

19 ~~(e) The experience, reputation, and ability of the~~
20 ~~lawyer or lawyers performing services.~~

21 ~~(f) The contingency or certainty of a fee.~~

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

30 (a) Against whom she or he successfully asserts a
31 petition claim for medical benefits only, if the claimant has

1 not filed or is not entitled to file at such time a claim for
2 disability, permanent impairment, wage-loss, or death
3 benefits, arising out of the same accident; ~~or~~

4 (b) In any case in which the employer or carrier files
5 a response to petition denying benefits with the Office of the
6 Judges of Compensation Claims and the injured person has
7 employed an attorney in the successful prosecution of the
8 petition claim; ~~or~~

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

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

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

25 (7) As to any settlement under s. 440.20(11)(c), the
26 judge of compensation claims may approve an attorney's fee not
27 to exceed 15 percent of the settlement amount.

28 Section 22. The amendment to s. 440.271, Florida
29 Statutes, shall apply to all appeals filed on or after July 1,
30 2002.

31

1 Section 23. The Board of Governors of the Joint
2 Underwriting Plan authorized under s. 627.311(4), Florida
3 Statutes, shall conduct a study with regard to the need for
4 basic insurance coverage to be required of every person
5 electing to be exempt from the provisions of chapter 440,
6 Florida Statutes. The study shall, at a minimum, address
7 potential scope of coverage, its cost, and likely
8 availability. The study shall be guided by the principle of
9 providing an affordable insurance product to the maximum
10 number of exemption holders. The study shall be submitted to
11 the President of the Senate and the Speaker of the House of
12 Representatives no later than February 1, 2003.

13 Section 24. The amendments to ss. 440.02 and 440.15,
14 Florida Statutes, in this act shall not be construed to affect
15 any determination of disability under s. 112.18, s. 112.181,
16 or s. 112.19, Florida Statutes.

17 Section 25. If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 invalidity shall not affect other provisions or applications
20 of the act which can be given effect without the invalid
21 provision or application, and to this end the provisions of
22 this act are declared severable.

23 Section 26. Except as otherwise provided herein, this
24 act shall take effect January 1, 2003.
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