

Bill No. HB 1837, 2nd Eng.

Amendment No.      Barcode 740876

CHAMBER ACTION

Senate

House

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Senator Posey moved the following amendment:

**Senate Amendment (with title amendment)**

Between lines 5180 and 5181,

and insert:

Section 39. Subsection (4) of section 27.34, Florida Statutes, is amended to read:

27.34 Salaries and other related costs of state attorneys' offices; limitations.--

(4) Notwithstanding s. 27.25, the Chief Financial Officer shall ~~Insurance Commissioner may~~ contract with the state attorneys attorney of the three largest any judicial circuits circuit of the state for the prosecution of criminal violations of the Workers' Compensation Law and related crimes and shall may contribute funds from the Workers' Compensation Administration Trust Fund for such purposes. Such contracts shall may provide for the training, salary, and expenses of one or more assistant state attorneys used in the prosecution of such crimes. The three participating circuits shall provide an annual report to the President of the Senate, the Speaker

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 of the House of Representatives, the Governor, and the  
2 Department of Financial Services regarding the workload and  
3 disposition of workers' compensation cases.

4 Section 40. Subsections (1) and (2) of section  
5 443.1715, Florida Statutes, are amended to read:

6 443.1715 Disclosure of information; confidentiality.--

7 (1) RECORDS AND REPORTS.--Information revealing the  
8 employing unit's or individual's identity obtained from the  
9 employing unit or from any individual pursuant to the  
10 administration of this chapter, and any determination  
11 revealing such information, except to the extent necessary for  
12 the proper presentation of a claim or upon written  
13 authorization of the claimant who has a workers' compensation  
14 claim pending or is receiving compensation benefits, must be  
15 held confidential and exempt from the provisions of s.  
16 119.07(1) and s. 24(a), Art. I of the State Constitution. Such  
17 information may be made available only to public employees in  
18 the performance of their public duties, including employees of  
19 the Department of Education in obtaining information for the  
20 Florida Education and Training Placement Information Program  
21 and the Office of Tourism, Trade, and Economic Development in  
22 its administration of the qualified defense contractor tax  
23 refund program authorized by s. 288.1045 and the qualified  
24 target industry tax refund program authorized by s. 288.106.  
25 Except as otherwise provided by law, public employees  
26 receiving such information must retain the confidentiality of  
27 such information. Any claimant, or the claimant's legal  
28 representative, at a hearing before an appeals referee or the  
29 commission shall be supplied with information from such  
30 records to the extent necessary for the proper presentation of  
31 her or his claim. Any employee or member of the commission or

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 any employee of the division, or any other person receiving  
2 confidential information, who violates any provision of this  
3 subsection commits a misdemeanor of the second degree,  
4 punishable as provided in s. 775.082 or s. 775.083. However,  
5 the division may furnish to any employer copies of any report  
6 previously submitted by such employer, upon the request of  
7 such employer, and may furnish to any claimant copies of any  
8 report previously submitted by such claimant, upon the request  
9 of such claimant, and the division is authorized to charge  
10 therefor such reasonable fee as the division may by rule  
11 prescribe not to exceed the actual reasonable cost of the  
12 preparation of such copies. Fees received by the division for  
13 copies as provided in this subsection must be deposited to the  
14 credit of the Employment Security Administration Trust Fund.

15 (2) DISCLOSURE OF INFORMATION.--

16 (a) Subject to such restrictions as the division  
17 prescribes by rule, information declared confidential under  
18 this section may be made available to any agency of this or  
19 any other state, or any federal agency, charged with the  
20 administration of any unemployment compensation law or the  
21 maintenance of a system of public employment offices, or the  
22 Bureau of Internal Revenue of the United States Department of  
23 the Treasury, or the Florida Department of Revenue and  
24 information obtained in connection with the administration of  
25 the employment service may be made available to persons or  
26 agencies for purposes appropriate to the operation of a public  
27 employment service or a job-preparatory or career education or  
28 training program. The division shall on a quarterly basis,  
29 furnish the National Directory of New Hires with information  
30 concerning the wages and unemployment compensation paid to  
31 individuals, by such dates, in such format and containing such

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 information as the Secretary of Health and Human Services  
2 shall specify in regulations. Upon request therefor, the  
3 division shall furnish any agency of the United States charged  
4 with the administration of public works or assistance through  
5 public employment, and may furnish to any state agency  
6 similarly charged, the name, address, ordinary occupation, and  
7 employment status of each recipient of benefits and such  
8 recipient's rights to further benefits under this chapter.  
9 Except as otherwise provided by law, the receiving agency must  
10 retain the confidentiality of such information as provided in  
11 this section. The division may request the Comptroller of the  
12 Currency of the United States to cause an examination of the  
13 correctness of any return or report of any national banking  
14 association rendered pursuant to the provisions of this  
15 chapter and may in connection with such request transmit any  
16 such report or return to the Comptroller of the Currency of  
17 the United States as provided in s. 3305(c) of the federal  
18 Internal Revenue Code.

19 (b)1. The employer or the employer's workers'  
20 compensation carrier against whom a claim for benefits under  
21 chapter 440 has been made, or a representative of either, may  
22 request from the department records of wages of the employee  
23 reported to the department by any employer for the quarter  
24 that includes the date of the accident that is the subject of  
25 such claim and for subsequent quarters. The request must be  
26 made with the authorization or consent of the employee or any  
27 employer who paid wages to the employee subsequent to the date  
28 of the accident.

29 2. The employer or carrier shall make the request on a  
30 form prescribed by rule for such purpose by the department.  
31 Such form shall contain a certification by the requesting

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 party that it is a party entitled to the information requested  
2 as authorized by this paragraph.

3 3. The division shall provide the most current  
4 information readily available within 15 days after receiving  
5 the request.

6 Section 41. Subsection (9) of section 626.989, Florida  
7 Statutes, is amended to read:

8 626.989 Investigation by department or Division of  
9 Insurance Fraud; compliance; immunity; confidential  
10 information; reports to division; division investigator's  
11 power of arrest.--

12 (9) In recognition of the complementary roles of  
13 investigating instances of workers' compensation fraud and  
14 enforcing compliance with the workers' compensation coverage  
15 requirements under chapter 440, the Department of Financial  
16 Services shall ~~Insurance is directed to~~ prepare and submit a  
17 joint performance report to the President of the Senate and  
18 the Speaker of the House of Representatives by January 1 of  
19 each year ~~November 1, 2003, and then by November 1 every 3~~  
20 ~~years thereafter, describing the results obtained in achieving~~  
21 ~~compliance with the workers' compensation coverage~~  
22 ~~requirements and reducing the incidence of workers'~~  
23 ~~compensation fraud. The annual report must include, but need~~  
24 not be limited to:

25 (a) The total number of initial referrals received,  
26 cases opened, cases presented for prosecution, cases closed,  
27 and convictions resulting from cases presented for prosecution  
28 by the Bureau of Workers' Compensation Insurance Fraud by type  
29 of workers' compensation fraud and circuit.

30 (b) The number of referrals received from insurers and  
31 the Division of Workers' Compensation and the outcome of those

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 referrals.

2       (c) The number of investigations undertaken by the  
3 office which were not the result of a referral from an insurer  
4 or the Division of Workers' Compensation.

5       (d) The number of investigations that resulted in a  
6 referral to a regulatory agency and the disposition of those  
7 referrals.

8       (e) The number and reasons provided by local  
9 prosecutors or the statewide prosecutor for declining  
10 prosecution of a case presented by the office by circuit.

11       (f) The total number of employees assigned to the  
12 office and the Division of Workers' Compliance unit delineated  
13 by location of staff assigned and the number and location of  
14 employees assigned to the office who were assigned to work  
15 other types of fraud cases.

16       (g) The average caseload and turnaround time by type  
17 of case for each investigator and division compliance  
18 employee.

19       (h) The training provided during the year to workers'  
20 compensation fraud investigators and the division's compliance  
21 employees.

22       Section 42. Section 626.9891, Florida Statutes, is  
23 amended to read:

24       626.9891 Insurer anti-fraud investigative units;  
25 reporting requirements; penalties for noncompliance.--

26       (1) Every insurer admitted to do business in this  
27 state who in the previous calendar year, at any time during  
28 that year, had \$10 million or more in direct premiums written  
29 shall:

30       (a) Establish and maintain a unit or division within  
31 the company to investigate possible fraudulent claims by

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 insureds or by persons making claims for services or repairs  
2 against policies held by insureds; or

3 (b) Contract with others to investigate possible  
4 fraudulent claims for services or repairs against policies  
5 held by insureds.

6  
7 An insurer subject to this subsection shall file with the  
8 Division of Insurance Fraud of the department on or before  
9 July 1, 1996, a detailed description of the unit or division  
10 established pursuant to paragraph (a) or a copy of the  
11 contract and related documents required by paragraph (b).

12 (2) Every insurer admitted to do business in this  
13 state, which in the previous calendar year had less than \$10  
14 million in direct premiums written, must adopt an anti-fraud  
15 plan and file it with the Division of Insurance Fraud of the  
16 department on or before July 1, 1996. An insurer may, in lieu  
17 of adopting and filing an anti-fraud plan, comply with the  
18 provisions of subsection (1).

19 (3) Each insurers anti-fraud plans shall include:

20 (a) A description of the insurer's procedures for  
21 detecting and investigating possible fraudulent insurance  
22 acts;

23 (b) A description of the insurer's procedures for the  
24 mandatory reporting of possible fraudulent insurance acts to  
25 the Division of Insurance Fraud of the department;

26 (c) A description of the insurer's plan for anti-fraud  
27 education and training of its claims adjusters or other  
28 personnel; and

29 (d) A written description or chart outlining the  
30 organizational arrangement of the insurer's anti-fraud  
31 personnel who are responsible for the investigation and

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 reporting of possible fraudulent insurance acts.

2 (4) Any insurer who obtains a certificate of authority  
3 after July 1, 1995, shall have 18 months in which to comply  
4 with the requirements of this section.

5 (5) For purposes of this section, the term "unit or  
6 division" includes the assignment of fraud investigation to  
7 employees whose principal responsibilities are the  
8 investigation and disposition of claims. If an insurer  
9 creates a distinct unit or division, hires additional  
10 employees, or contracts with another entity to fulfill the  
11 requirements of this section, the additional cost incurred  
12 must be included as an administrative expense for ratemaking  
13 purposes.

14 (6) Each insurer writing workers' compensation  
15 insurance shall report to the department, on or before August  
16 1 of each year, on its experience in implementing and  
17 maintaining an anti-fraud investigative unit or an anti-fraud  
18 plan. The report must include, at a minimum:

19 (a) The dollar amount of recoveries and losses  
20 attributable to workers' compensation fraud delineated by the  
21 type of fraud: claimant, employer, provider, agent, or other;

22 (b) The number of referrals to the Bureau of Workers'  
23 Compensation Fraud for the prior year;

24 (c) A description of the organization of the  
25 anti-fraud investigative unit, if applicable, including the  
26 position titles and descriptions of staffing;

27 (d) The rationale for the level of staffing and  
28 resources being provided for the anti-fraud investigative  
29 unit, which may include objective criteria such as number of  
30 policies written, number of claims received on an annual  
31 basis, volume of suspected fraudulent claims currently being



Bill No. HB 1837, 2nd Enq.

Amendment No.      Barcode 740876

1 detected, other factors, and an assessment of optimal caseload  
2 that can be handled by an investigator on an annual basis;

3 (e) The in-service education and training provided to  
4 underwriting and claims personnel to assist in identifying and  
5 evaluating instances of suspected fraudulent activity in  
6 underwriting or claims activities; and

7 (f) A description of a public awareness program  
8 focused on the costs and frequency of insurance fraud and  
9 methods by which the public can prevent it.

10 (7) If an insurer fails to submit a final anti-fraud  
11 plan or otherwise fails to submit a plan, or fails to  
12 implement the provisions of a plan or an anti-fraud  
13 investigative unit, or otherwise refuses to comply with the  
14 provisions of this section, the department may:

15 (a) Impose an administrative fine of not more than  
16 \$2,000 per day for such failure by an insurer, until the  
17 department deems the insurer to be in compliance;

18 (b) Impose upon the insurer a fraud detection and  
19 prevention plan that is deemed to be appropriate by the  
20 department and that must be implemented by the insurer; or

21 (c) Impose the provisions of both paragraphs (a) and  
22 (b).

23 (8) The department may adopt rules to administer this  
24 section.

25 Section 43. Four positions and the sum of \$290,923 are  
26 appropriated from the Workers' Compensation Administration  
27 Trust Fund in the Department of Financial Services. These  
28 funds and positions are appropriated in lump sum and shall be  
29 allocated pursuant to the review process in chapter 216.177,  
30 Florida Statutes. Three positions and the sum of \$207,474  
31 shall be allocated to the state attorneys in the Eleventh,

Bill No. HB 1837, 2nd Enq.

Amendment No. \_\_\_\_ Barcode 740876

1 Fifteenth, and Seventeenth Judicial Circuits. One position and  
2 \$83,449 shall be allocated to the Department of Legal Affairs.

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

6 And the title is amended as follows:

7 On line 99, after the semicolon

8

9 insert:

10 amending s. 27.34, F.S.; requiring the Chief  
11 Financial Officer to contract with the state  
12 attorneys of specified judicial circuits to  
13 prosecute criminal violation of the Workers'  
14 Compensation Law and related crimes; requiring  
15 a report to the Legislature and the executive  
16 branch; amending s. 443.036, F.S.; requiring an  
17 employee leasing company to report certain  
18 information to the department; amending ss.  
19 443.171, 443.1715, F.S.; amending provisions  
20 relating to records and reports; amending s.  
21 626.989, F.S.; providing that the Department of  
22 Financial Services shall prepare an annual  
23 report related to workers' compensation fraud  
24 and compliance; amending s. 626.9891, F.S.;  
25 amending reporting requirements for insurers;  
26 providing penalties for noncompliance;  
27 authorizing positions and providing  
28 appropriations from the Workers' Compensation  
29 Administration Trust Fund to state attorneys in  
30 specified judicial circuits and to the  
31 Department of Legal Affairs;