

By Senator Cowin

20-1164A-03

See HB

1 A bill to be entitled
2 An act relating to public employees; providing
3 a popular name; renumbering parts I, II, and IV
4 of ch. 110, F.S., as parts I, II, and III of
5 ch. 109, F.S.; repealing s. 110.1082, F.S.,
6 relating to use of telephone voice mail and
7 menu options systems; amending and renumbering
8 s. 110.1091, F.S.; requiring state agencies to
9 provide a program to assist employees with
10 specified problems; amending and renumbering s.
11 110.1099, F.S.; specifying duties of agency
12 heads with respect to education and training
13 opportunities for state employees; including
14 courses at community colleges in such
15 opportunities; revising responsibilities of
16 employees granted educational leave; reenacting
17 and renumbering s. 110.112, F.S.; amending and
18 renumbering s. 110.113, F.S.; requiring all
19 state employees to participate in the direct
20 deposit program; revising conditions for
21 requesting an exemption; amending and
22 renumbering s. 110.123, F.S., relating to the
23 state group insurance program; removing a
24 prohibition against the contribution of state
25 funds toward supplemental benefit plan
26 premiums; directing the Department of
27 Management Services to establish criteria to
28 allow lower cost to employees if agencies
29 require physical/health standards; amending and
30 renumbering s. 110.12312, F.S.; providing for
31 inclusion of supplemental benefit insurance in

1 options offered to retired state employees;
2 amending and renumbering s. 110.124, F.S.;
3 increasing the age limit for provisions that
4 provide relief for employees terminated solely
5 because of age; providing that an employee who
6 is terminated solely because of attaining such
7 age may apply to the circuit court for relief
8 if binding arbitration is not conducted;
9 amending and renumbering s. 110.1245, F.S.;
10 providing for a gain sharing program, with
11 awards set by the Legislative Budgeting
12 Commission; deleting certain limitations;
13 amending and renumbering s. 110.131, F.S.;
14 revising the time limitation on employment of
15 other-personal-services temporary employees;
16 requiring approval of the Governor's Office of
17 Policy and Budget for extension of such
18 limitation; revising exemptions from such
19 limitation; amending and renumbering s.
20 110.1522, F.S.; including leave for employees
21 with an elderly parent in family support
22 personnel policies; creating s. 109.202, F.S.;
23 deleting a requirement that a layoff be
24 conducted within an identified competitive
25 area; providing for appeals with respect to
26 reductions in pay, transfers, layoffs,
27 demotions, suspensions, or dismissals;
28 providing the agency's burden of proof;
29 providing requirements for the grievance
30 process; providing for rules; amending and
31 renumbering s. 110.233, F.S.; revising

1 provisions relating to employees holding local
2 public office; creating s. 109.240, F.S.;
3 providing that any permanent career service
4 employee may request binding arbitration
5 administered by the Division of Human Resource
6 Management upon notice of an adverse agency
7 action; providing definitions; providing
8 requirements for such requests; providing for
9 notice to the agency; specifying the employer's
10 burden of proof; providing for arbitrators and
11 their qualifications and authority; providing
12 duties of the division; providing for records;
13 providing procedural requirements for
14 arbitration proceedings; providing for rules;
15 providing for application to the circuit court
16 for an order enforcing, vacating, or modifying
17 the arbitration decision; providing for
18 immunity; creating s. 109.241, F.S.; providing
19 for the appointment of peer review committees
20 to hear employee appeals of adverse personnel
21 actions; providing for selection of members;
22 providing procedures for such appeals;
23 providing a declaration of policy; amending and
24 renumbering s. 110.203, F.S.; conforming a
25 definition; revising the definitions of
26 promotion, demotion, dismissal, suspension;
27 creating s. 109.2035, F.S.; directing the
28 Department of Management Services, in
29 consultation with specified entities, to
30 develop a model civil service classification
31 and compensation program and providing

1 requirements with respect thereto; repealing s.
2 110.205(2)(n), F.S., which allows department
3 heads to designate certain positions as
4 Selected Exempt Service or Senior Management
5 Service; correcting cross-references, to
6 conform; amending and renumbering s. 110.211,
7 F.S.; directing the department to develop
8 uniform recruitment and selection rules to be
9 used by employing agencies; revising
10 requirements relating to recruitment
11 literature; amending and renumbering s.
12 110.224, F.S.; revising requirements relating
13 to a review and performance planning system and
14 designating such system a review and
15 performance evaluation system; revising
16 requirements relating to certain information
17 furnished to employees and employee evaluation;
18 providing for biannual management performance
19 reports; amending and renumbering s. 110.227,
20 F.S.; providing that a career service employee
21 may be suspended or dismissed for reasonable
22 cause and specifying actions included
23 thereunder; providing that rules regarding
24 layoff shall include bumping; providing such
25 employee's rights; providing authority of such
26 committees; providing the department's burden
27 of proof; authorizing remedial action if the
28 action is not sustained; repealing ss. 110.401,
29 110.402, 110.403, 110.405, 110.406, 110.601,
30 110.602, 110.603, 110.604, 110.605, and
31 110.606, F.S., which create the Senior

1 Management Service and Selected Exempt Service
2 systems; amending and renumbering ss. 110.116,
3 110.117, 110.1227, 110.1228, 110.1232,
4 110.2037, 110.152, 110.15201, 110.1521,
5 110.1523, 110.161, 110.171, 110.191, 110.2037,
6 110.205, 110.219, and 110.502, F.S.; clarifying
7 and conforming provisions and correcting
8 cross-references; amending ss. 20.18, 20.21,
9 20.23, 20.255, 20.315, 24.105, 24.122, 63.097,
10 68.087, 104.31, 106.082, 106.24, 112.044,
11 112.0805, 112.313, 112.3189, 112.363, 121.021,
12 121.0515, 121.055, 121.35, 215.94, 216.011,
13 216.181, 216.251, 260.0125, 287.175, 295.07,
14 296.04, 296.34, 311.07, 338.2216, 339.175,
15 343.74, 373.6065, 381.00315, 381.85, 393.0657,
16 400.19, 400.953, 402.3057, 402.55, 402.731,
17 409.1757, 409.9205, 440.102, 443.171, 447.207,
18 456.048, 471.038, 509.036, 570.073, 570.074,
19 624.307, 627.0623, 627.6488, 627.649, 627.6498,
20 627.6617, 655.019, 943.0585, 943.059, 943.22,
21 943.61, 944.35, 945.043, 946.525, 957.03,
22 985.05, 985.4045, 1001.28, 1001.74, 1002.36,
23 1012.62, and 1012.96, F.S.; conforming
24 provisions and correcting cross-references;
25 amending s. 20.22, F.S.; creating the Division
26 of Human Resource Management in the Department
27 of Management Services; providing powers and
28 duties of the Public Employees Relations
29 Commission; directing the Department of
30 Management Services to coordinate a transition
31 plan; providing an appropriation; providing for

1 a budget amendment; authorizing the Department
2 of Management Services to adopt rules;
3 providing effective dates.

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

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7 Section 1. This act shall be known by the popular name
8 "The Vertical Incentive Plan."

9 Section 2. Sections 110.105 and 110.107, Florida
10 Statutes, are renumbered as sections 109.105 and 109.107,
11 Florida Statutes, respectively.

12 Section 3. Section 110.1082, Florida Statutes, is
13 repealed.

14 Section 4. Section 110.1091, Florida Statutes, is
15 renumbered as section 109.1091, Florida Statutes, and amended
16 to read:

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

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

7 Section 5. Section 110.1099, Florida Statutes, is
8 renumbered as section 109.1099, Florida Statutes, and amended
9 to read:

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

12 (1)(a) Education and training are an integral
13 component in improving the delivery of services to the public.
14 Recognizing that the application of productivity-enhancing
15 technology and practice demands continuous educational and
16 training opportunities, a state employee may be authorized to
17 receive a voucher or grant, for matriculation fees, to attend
18 work-related courses at public community colleges, public
19 technical centers, or public universities. The department may
20 implement the provisions of this section from funds
21 appropriated to the department for this purpose. In the event
22 insufficient funds are appropriated to the department, each
23 state agency may supplement these funds to support the
24 training and education needs of its employees from funds
25 appropriated to the agency.

26 (b) For the 2001-2002 fiscal year only and
27 notwithstanding the provisions of paragraph (a), state
28 employees may not be authorized to receive fundable tuition
29 waivers on a space-available basis. This paragraph expires
30 July 1, 2002.

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1 (2) The department, in conjunction with the agencies,
2 shall request that public universities and community colleges
3 provide evening and weekend programs for state employees. When
4 evening and weekend training and educational programs are not
5 available, an employee may be authorized to take paid time off
6 during his or her regular working hours for training and
7 career development, as provided in s. 109.105(1) ~~110.105(1)~~,
8 if such training benefits the employer as determined by that
9 employee's agency head.

10 (3) An employee who exhibits superior aptitude and
11 performance may be authorized by that employee's agency head
12 to take a paid educational leave of absence for up to 1
13 academic year at a time, for specific approved work-related
14 education and training. That employee must enter into a
15 contract to return to state employment for a period of time
16 equal to twice the length of the leave of absence or refund
17 salary and benefits paid during his or her educational leave
18 of absence.

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

1 balance then due and owing on behalf of a state employee under
2 this subsection in connection with recruitment and hiring of
3 such state employee.

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

9 Section 6. Section 110.112, Florida Statutes, is
10 renumbered as section 109.112, Florida Statutes, to read:

11 109.112 ~~110.112~~ Affirmative action; equal employment
12 opportunity.--

13 (1) It shall be the policy of the state to assist in
14 providing the assurance of equal employment opportunity
15 through programs of affirmative and positive action that will
16 allow full utilization of women and minorities.

17 (2)(a) The head of each executive agency shall develop
18 and implement an affirmative action plan in accordance with
19 rules adopted by the department and approved by a majority
20 vote of the Administration Commission before their adoption.

21 (b) Each executive agency shall establish annual goals
22 for ensuring full utilization of groups underrepresented in
23 its workforce as compared to the relevant labor market, as
24 defined by the agency. Each executive agency shall design its
25 affirmative action plan to meet its established goals.

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

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

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

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

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

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

20 (b) Establish annual goals for ensuring full
21 utilization of groups underrepresented in its workforce as
22 compared to the relevant labor market in this state. The state
23 attorneys' and public defenders' affirmative action plans must
24 be designed to meet the established goals.

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

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

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1 (4) The state, its agencies and officers shall ensure
2 freedom from discrimination in employment as provided by the
3 Florida Civil Rights Act of 1992, by s. 112.044, and by this
4 chapter.

5 (5) Any individual claiming to be aggrieved by an
6 unlawful employment practice may file a complaint with the
7 Florida Commission on Human Relations as provided by s.
8 760.11.

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

12 Section 7. Sections 110.1127 and 110.1128, Florida
13 Statutes, are renumbered as sections 109.1127 and 109.1128,
14 Florida Statutes, respectively.

15 Section 8. Section 110.113, Florida Statutes, is
16 renumbered as section 109.113, Florida Statutes, and
17 subsection (2) of that section is amended to read:

18 109.113 ~~110.113~~ Pay periods for state officers and
19 employees; salary payments by direct deposit.--

20 (2) As a condition of employment, a person appointed
21 to a position in state government is required to participate
22 in the direct deposit program pursuant to s. 17.076. An
23 employee may request an exemption from the provisions of this
24 subsection when such employee can demonstrate a hardship ~~or~~
25 ~~when such employee is in an other personal services position.~~

26 Section 9. Sections 110.114, 110.115, and 110.1155,
27 Florida Statutes, are renumbered as sections 109.114, 109.115,
28 and 109.1155, Florida Statutes, respectively.

29 Section 10. Section 110.116, Florida Statutes, is
30 renumbered as section 109.116, Florida Statutes, and
31 subsection (2) of that section is amended to read:

1 109.116 ~~110.116~~ Personnel information system; payroll
2 procedures.--

3 (2) For the 2002-2003 fiscal year only, and
4 notwithstanding the requirements of s. 215.94(5) that the
5 department design, implement, and operate the system and of s.
6 109.201(1)(e)~~110.201(1)(e)~~ that the individual employing
7 agencies maintain records and reports, the department is
8 authorized to contract with a vendor to provide the personnel
9 information system for state agencies. The vendor may assist
10 the department in compiling and reporting personnel data and
11 may assist the employing agencies in maintaining personnel
12 records. This subsection expires July 1, 2003.

13 Section 11. Section 110.1165, Florida Statutes, is
14 renumbered as section 109.1165, Florida Statutes.

15 Section 12. Section 110.117, Florida Statutes, is
16 renumbered as section 109.117, Florida Statutes, and
17 subsection (3) of that section is amended to read:

18 109.117 ~~110.117~~ Paid holidays.--

19 (3) Each full-time employee is entitled to one
20 personal holiday each year. Each part-time employee is
21 entitled to a personal holiday each year which shall be
22 calculated proportionately to the personal holiday allowed to
23 a full-time employee. Such personal holiday shall be credited
24 to eligible employees on July 1 of each year to be taken prior
25 to June 30 of the following year. Members of the teaching and
26 research faculty of the State University System and
27 administrative and professional positions exempted under s.
28 109.205(2)(d)~~110.205(2)(d)~~ are not eligible for this benefit.

29 Section 13. Sections 110.118, 110.119, 110.120,
30 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes,
31 are renumbered as sections 109.118, 109.119, 109.120, 109.121,

1 109.122, 109.1221, and 109.1225, Florida Statutes,
2 respectively.

3 Section 14. Section 110.1227, Florida Statutes, is
4 renumbered as section 109.1227, Florida Statutes, and
5 paragraph (c) of subsection (1) of that section is amended to
6 read:

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

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

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

15 Section 15. Section 110.1228, Florida Statutes, is
16 renumbered as section 109.1228, Florida Statutes, and
17 subsection (2) of that section is amended to read:

18 109.1228 ~~110.1228~~ Participation by small counties,
19 small municipalities, and district school boards ~~located in~~
20 ~~small counties~~.--

21 (2) The governing body of a small county or small
22 municipality or a district school board may apply for
23 participation in the state group health insurance program
24 authorized in s. 109.123 ~~110.123~~ and the prescription drug
25 coverage program authorized by s. 109.12315 ~~110.12315~~ by
26 submitting an application along with a \$500 nonrefundable fee
27 to the department.

28 Section 16. Section 110.123, Florida Statutes, is
29 renumbered as section 109.123, Florida Statutes, and paragraph
30 (h) of subsection (3) of that section is amended to read:

31 109.123 ~~110.123~~ State group insurance program.--

1 (3) STATE GROUP INSURANCE PROGRAM.--

2 (h)1. A person eligible to participate in the state
3 group insurance program may be authorized by rules adopted by
4 the department, in lieu of participating in the state group
5 health insurance plan, to exercise an option to elect
6 membership in a health maintenance organization plan which is
7 under contract with the state in accordance with criteria
8 established by this section and by said rules. The offer of
9 optional membership in a health maintenance organization plan
10 permitted by this paragraph may be limited or conditioned by
11 rule as may be necessary to meet the requirements of state and
12 federal laws.

13 2. The department shall contract with health
14 maintenance organizations seeking to participate in the state
15 group insurance program through a request for proposal or
16 other procurement process, as developed by the Department of
17 Management Services and determined to be appropriate.

18 a. The department shall establish a schedule of
19 minimum benefits for health maintenance organization coverage,
20 and that schedule shall include: physician services; inpatient
21 and outpatient hospital services; emergency medical services,
22 including out-of-area emergency coverage; diagnostic
23 laboratory and diagnostic and therapeutic radiologic services;
24 mental health, alcohol, and chemical dependency treatment
25 services meeting the minimum requirements of state and federal
26 law; skilled nursing facilities and services; prescription
27 drugs; and other benefits as may be required by the
28 department. Additional services may be provided subject to the
29 contract between the department and the HMO.

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1 b. The department may establish uniform deductibles,
2 copayments, or coinsurance schedules for all participating HMO
3 plans.

4 c. The department may require detailed information
5 from each health maintenance organization participating in the
6 procurement process, including information pertaining to
7 organizational status, experience in providing prepaid health
8 benefits, accessibility of services, financial stability of
9 the plan, quality of management services, accreditation
10 status, quality of medical services, network access and
11 adequacy, performance measurement, ability to meet the
12 department's reporting requirements, and the actuarial basis
13 of the proposed rates and other data determined by the
14 director to be necessary for the evaluation and selection of
15 health maintenance organization plans and negotiation of
16 appropriate rates for these plans. Upon receipt of proposals
17 by health maintenance organization plans and the evaluation of
18 those proposals, the department may enter into negotiations
19 with all of the plans or a subset of the plans, as the
20 department determines appropriate. Nothing shall preclude the
21 department from negotiating regional or statewide contracts
22 with health maintenance organization plans when this is
23 cost-effective and when the department determines that the
24 plan offers high value to enrollees.

25 d. The department may limit the number of HMOs that it
26 contracts with in each service area based on the nature of the
27 bids the department receives, the number of state employees in
28 the service area, or any unique geographical characteristics
29 of the service area. The department shall establish by rule
30 service areas throughout the state.

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1 e. All persons participating in the state group
2 insurance program who are required to contribute towards a
3 total state group health premium shall be subject to the same
4 dollar contribution regardless of whether the enrollee enrolls
5 in the state group health insurance plan or in an HMO plan.

6 3. The department is authorized to negotiate and to
7 contract with specialty psychiatric hospitals for mental
8 health benefits, on a regional basis, for alcohol, drug abuse,
9 and mental and nervous disorders. The department may
10 establish, subject to the approval of the Legislature pursuant
11 to subsection (5), any such regional plan upon completion of
12 an actuarial study to determine any impact on plan benefits
13 and premiums.

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

17 a. Serves greater than 5,000 recipients on a prepaid
18 basis under the Medicaid program;

19 b. Does not currently meet the 25-percent
20 non-Medicare/non-Medicaid enrollment composition requirement
21 established by the Department of Health excluding participants
22 enrolled in the state group insurance program;

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

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

29 e. Meets the minimum surplus requirements of s.
30 641.225.

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1 The department is authorized to contract with HMOs that meet
2 the requirements of sub-subparagraphs a.-d. prior to the open
3 enrollment period for state employees. The department is not
4 required to renew the contract with the HMOs as set forth in
5 this paragraph more than twice. Thereafter, the HMOs shall be
6 eligible to participate in the state group insurance program
7 only through the request for proposal process described in
8 subparagraph 2.

9 5. All enrollees in the state group health insurance
10 plan or any health maintenance organization plan shall have
11 the option of changing to any other health plan which is
12 offered by the state within any open enrollment period
13 designated by the department. Open enrollment shall be held at
14 least once each calendar year.

15 6. When a contract between a treating provider and the
16 state-contracted health maintenance organization is terminated
17 for any reason other than for cause, each party shall allow
18 any enrollee for whom treatment was active to continue
19 coverage and care when medically necessary, through completion
20 of treatment of a condition for which the enrollee was
21 receiving care at the time of the termination, until the
22 enrollee selects another treating provider, or until the next
23 open enrollment period offered, whichever is longer, but no
24 longer than 6 months after termination of the contract. Each
25 party to the terminated contract shall allow an enrollee who
26 has initiated a course of prenatal care, regardless of the
27 trimester in which care was initiated, to continue care and
28 coverage until completion of postpartum care. This does not
29 prevent a provider from refusing to continue to provide care
30 to an enrollee who is abusive, noncompliant, or in arrears in
31 payments for services provided. For care continued under this

1 subparagraph, the program and the provider shall continue to
2 be bound by the terms of the terminated contract. Changes made
3 within 30 days before termination of a contract are effective
4 only if agreed to by both parties.

5 7. Any HMO participating in the state group insurance
6 program shall submit health care utilization and cost data to
7 the department, in such form and in such manner as the
8 department shall require, as a condition of participating in
9 the program. The department shall enter into negotiations with
10 its contracting HMOs to determine the nature and scope of the
11 data submission and the final requirements, format, penalties
12 associated with noncompliance, and timetables for submission.
13 These determinations shall be adopted by rule.

14 8. The department may establish and direct, with
15 respect to collective bargaining issues, a comprehensive
16 package of insurance benefits that may include supplemental
17 health and life coverage, dental care, long-term care, vision
18 care, and other benefits it determines necessary to enable
19 state employees to select from among benefit options that best
20 suit their individual and family needs.

21 a. Based upon a desired benefit package, the
22 department shall issue a request for proposal for health
23 insurance providers interested in participating in the state
24 group insurance program, and the department shall issue a
25 request for proposal for insurance providers interested in
26 participating in the non-health-related components of the
27 state group insurance program. Upon receipt of all proposals,
28 the department may enter into contract negotiations with
29 insurance providers submitting bids or negotiate a specially
30 designed benefit package. Insurance providers offering or
31 providing supplemental coverage as of May 30, 1991, which

1 qualify for pretax benefit treatment pursuant to s. 125 of the
2 Internal Revenue Code of 1986, with 5,500 or more state
3 employees currently enrolled may be included by the department
4 in the supplemental insurance benefit plan established by the
5 department without participating in a request for proposal,
6 submitting bids, negotiating contracts, or negotiating a
7 specially designed benefit package. These contracts shall
8 provide state employees with the most cost-effective and
9 comprehensive coverage available; ~~however, no state or agency~~
10 ~~funds shall be contributed toward the cost of any part of the~~
11 ~~premium of such supplemental benefit plans.~~ With respect to
12 dental coverage, the division shall include in any
13 solicitation or contract for any state group dental program
14 made after July 1, 2001, a comprehensive indemnity dental plan
15 option which offers enrollees a completely unrestricted choice
16 of dentists. If a dental plan is endorsed, or in some manner
17 recognized as the preferred product, such plan shall include a
18 comprehensive indemnity dental plan option which provides
19 enrollees with a completely unrestricted choice of dentists.

20 b. Pursuant to the applicable provisions of s. 109.161
21 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the
22 department shall enroll in the pretax benefit program those
23 state employees who voluntarily elect coverage in any of the
24 supplemental insurance benefit plans as provided by
25 sub-subparagraph a.

26 c. Nothing herein contained shall be construed to
27 prohibit insurance providers from continuing to provide or
28 offer supplemental benefit coverage to state employees as
29 provided under existing agency plans.

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1 d. The Department of Management Services shall
2 establish criteria to allow lower cost to employees if
3 agencies require physical/health standards.

4 Section 17. Section 110.12312, Florida Statutes, is
5 renumbered as section 109.12312, Florida Statutes, and is
6 amended to read:

7 109.12312 ~~110.12312~~ Open enrollment period for
8 retirees.--On or after July 1, 1997, the Department of
9 Management Services shall provide for an open enrollment
10 period for retired state employees who want to obtain health
11 insurance coverage under ss. 109.123 ~~110.123~~ and 109.12315
12 ~~110.12315~~. The options offered during the open enrollment
13 period must provide the same health and supplemental benefit
14 insurance coverage as the coverage provided to active
15 employees under the same premium payment conditions in effect
16 for covered retirees, including eligibility for health
17 insurance subsidy payments under s. 112.363. A person who
18 separates from employment subsequent to May 1, 1988, but whose
19 date of retirement occurs on or after August 1, 1995, is
20 eligible as of the first open enrollment period occurring
21 after July 1, 1997, with an effective date of January 1, 1998,
22 as long as the retiree's enrollment remains in effect.

23 Section 18. Section 110.12315, Florida Statutes, is
24 renumbered as section 109.12315, Florida Statutes.

25 Section 19. Section 110.1232, Florida Statutes, is
26 renumbered as section 109.1232, Florida Statutes, and amended
27 to read:

28 109.1232 ~~110.1232~~ Health insurance coverage for
29 persons retired under state-administered retirement systems
30 before January 1, 1976, and for spouses.--Notwithstanding any
31 provisions of law to the contrary, the Department of

1 Management Services shall provide health insurance coverage
2 under the state group insurance program for persons who
3 retired before January 1, 1976, under any of the
4 state-administered retirement systems and who are not covered
5 by social security and for the spouses and surviving spouses
6 of such retirees who are also not covered by social security.
7 Such health insurance coverage shall provide the same benefits
8 as provided to other retirees who are entitled to participate
9 under s. 109.123 ~~110.123~~. The claims experience of this group
10 shall be commingled with the claims experience of other
11 members covered under s. 109.123 ~~110.123~~.

12 Section 20. Sections 110.1234, 110.1238, and 110.1239,
13 Florida Statutes, are renumbered as sections 109.1234,
14 109.1238, and 109.1239, Florida Statutes, respectively.

15 Section 21. Section 110.1245, Florida Statutes, is
16 renumbered as section 109.1245, Florida Statutes, and amended
17 to read:

18 (Substantial rewording of section. See
19 s. 110.1245, F.S., for present text.)
20 109.1245 Gain sharing program.--

21 (1) The Department of Management Services shall set
22 policy, develop procedures, and promote a program of gain
23 sharing for employees who propose procedures or ideas which
24 are adopted and which will result in increasing productivity,
25 in eliminating or reducing state expenditures or improving
26 operations, or in generating additional revenues, provided
27 such proposals are placed in effect and can be implemented
28 under current statutory authority. Every state agency, unless
29 otherwise provided by law, shall participate in the program.
30 The Chief Justice shall have the authority to establish a gain
31 sharing program for employees of the judicial branch within

1 the parameters established in this section. The program shall
2 apply to all employees within the Career Service System, the
3 Selected Exempt Service System, and comparable employees
4 within the judicial branch. The Legislative Budgeting
5 Commission shall set awards for the gain sharing program. The
6 judicial branch or a state agency may award certificates,
7 pins, plaques, letters of commendation, and other tokens of
8 recognition under the gain sharing program.

9 (2) The department and the judicial branch shall
10 submit annually to the President of the Senate and the Speaker
11 of the House of Representatives information that outlines each
12 agency's level of participation in the program. The
13 information must include, but is not limited to:

14 (a) The number of proposals made.

15 (b) The number of awards made to employees for adopted
16 proposals.

17 (c) The actual cost savings realized as a result of
18 implementing employee proposals.

19 (d) Total expenditures incurred by the Legislative
20 Budgeting Commission for providing awards to employees for
21 adopted proposals.

22 (e) The number of employees recognized for superior
23 accomplishments.

24 (f) The number of employees recognized for
25 satisfactory service to the state.

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

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

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

16 Section 22. Sections 110.125, 110.126, 110.127, and
17 110.129, Florida Statutes, are renumbered as sections 109.125,
18 109.126, 109.127, and 109.129, Florida Statutes, respectively.

19 Section 23. Section 110.131, Florida Statutes, is
20 renumbered as section 109.131, Florida Statutes, and,
21 effective July 1, 2003, subsections (2) and (3) and paragraph
22 (c) of subsection (6) of that section are amended to read:

23 109.131 ~~110.131~~ Other-personal-services temporary
24 employment.--

25 (2) An agency may employ any qualified individual in
26 other-personal-services temporary employment for 100 hours in
27 any calendar month ~~1,040 hours within any 12-month~~ period. An
28 extension beyond a total of 100 hours in any calendar month
29 period ~~1,040 hours~~ within an agency for any individual
30 requires the ~~a recommendation by the agency head and approval~~
31 of the Governor's Office of Policy and Budgeting for good

1 ~~cause by the Executive Office of the Governor. Approval of~~
2 ~~extensions shall be made in accordance with criteria~~
3 ~~established by the department. Each agency shall maintain~~
4 ~~employee information as specified by the department regarding~~
5 ~~each extension of other-personal-services temporary~~
6 ~~employment.~~ The time limitation established by this subsection
7 does not apply to board members; ~~consultants; seasonal~~
8 ~~employees;~~ institutional clients employed as part of their
9 rehabilitation; bona fide, degree-seeking students in
10 accredited secondary or postsecondary educational programs;
11 employees hired to deal with an emergency situation that
12 affects the public health, safety, or welfare; or employees
13 hired for a project that is identified by a specific
14 appropriation or time-limited grant.

15 (3) The department shall adopt rules providing that
16 other-personal-services temporary employment in an
17 employer-employee relationship shall be used for short-term
18 tasks. Such rules shall specify the employment categories,
19 terms, conditions, rate of pay, and frequency of
20 other-personal-services temporary employment and the duration
21 for which such employment may last, ~~and specify criteria for~~
22 ~~approving extensions beyond the time limitation provided in~~
23 ~~subsection (2)~~ and prescribe recordkeeping and reporting
24 requirements for other-personal-services employment.

25 (6)

26 (c) Notwithstanding the provisions of this section,
27 the agency head or his or her designee may extend the
28 other-personal-services employment of a health care
29 practitioner licensed pursuant to chapter 458, chapter 459,
30 chapter 460, chapter 461, chapter 463, part I of chapter 464,
31 chapter 466, chapter 468, chapter 483, chapter 486, or chapter

1 490 beyond 2,080 hours per year and may employ such
2 practitioner on an hourly or other basis.

3 Section 24. Section 110.151, Florida Statutes, is
4 renumbered as section 109.151, Florida Statutes.

5 Section 25. Section 110.152, Florida Statutes, is
6 renumbered as section 109.152, Florida Statutes, and
7 subsection (4) of that section is amended to read:

8 109.152 ~~110.152~~ Adoption benefits for state employees;
9 parental leave.--

10 (4) Any employee of the state who has a child placed
11 in the custody of the employee for adoption, and who continues
12 to reside in the same household as the child placed for
13 adoption, shall be granted parental leave for a period not to
14 exceed 6 months as provided in s. 109.221 ~~110.221~~.

15 Section 26. Section 110.15201, Florida Statutes, is
16 renumbered as section 109.15201, Florida Statutes, and amended
17 to read:

18 109.15201 ~~110.15201~~ Adoption benefits for state
19 employees; rulemaking authority.--The Department of Management
20 Services may adopt rules to administer the provisions of this
21 act. Such rules may provide for an application process such
22 as, but not limited to, an open enrollment period during which
23 employees may apply for monetary benefits as provided in s.
24 109.152 ~~110.152(1)~~.

25 Section 27. Section 110.1521, Florida Statutes, is
26 renumbered as section 109.1521, Florida Statutes, and amended
27 to read:

28 109.1521 ~~110.1521~~ Short title.--Sections
29 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the
30 "Family Support Personnel Policies Act."
31

1 Section 28. Section 110.1522, Florida Statutes, is
2 renumbered as section 109.1522, Florida Statutes, and amended
3 to read:

4 109.1522 ~~110.1522~~ Model rule establishing family
5 support personnel policies.--The Department of Management
6 Services shall develop a model rule establishing family
7 support personnel policies for all executive branch agencies,
8 excluding the State University System. "Family support
9 personnel policies," for purposes of ss. 109.1521-109.1523
10 ~~110.1521-110.1523~~, means personnel policies affecting
11 employees' ability to both work and devote care and attention
12 to their families and includes policies on flexible hour work
13 schedules, compressed time, job sharing, part-time employment,
14 maternity or paternity leave for employees with a newborn or
15 newly adopted child, leave for employees with an elderly
16 parent, and paid and unpaid family or administrative leave for
17 family responsibilities.

18 Section 29. Section 110.1523, Florida Statutes, is
19 renumbered as section 109.1523, Florida Statutes, and amended
20 to read:

21 109.1523 ~~110.1523~~ Adoption of model rule.--The model
22 rule shall be effective 20 days after having been filed with
23 the Department of State and shall become part of the personnel
24 rules of all applicable state agencies 150 days after the
25 effective date of the rule to the extent that each agency does
26 not, subsequent to such effective date, adopt a rule that sets
27 forth the intent to specifically amend all or part of such
28 model rule. Any employee or organization representing
29 employees shall be considered a party for purposes of any rule
30 required by ss. 109.1521-109.1523 ~~110.1521-110.1523~~,
31 notwithstanding any provision of chapter 120 to the contrary.

1 Section 30. Section 110.124, Florida Statutes, is
2 renumbered as section 109.124, Florida Statutes, and
3 subsections (2) and (4) of that section are amended to read:

4 109.124 ~~110.124~~ Termination or transfer of employees
5 age 67 ~~aged 65~~ or older.--

6 (2) Whenever any employee who has attained age 67 ~~65~~
7 is terminated by an agency or department solely because the
8 employee attains age 67 ~~65~~, the employee may apply for relief
9 from the action to the circuit court, unless binding
10 arbitration is conducted pursuant to s. 109.240 ~~Public~~
11 ~~Employees Relations Commission pursuant to s. 447.208~~. The
12 employee shall continue in employment pending the outcome of
13 the case ~~application~~. If the employee continues in employment
14 following the decision of the court ~~commission~~, no further
15 action shall be taken by the agency or department to terminate
16 the employee for a period of 1 year following the date of the
17 court's ~~decision of the commission~~ unless approved by the
18 court ~~commission~~ upon a showing by the agency or department
19 that the employee's capability has changed to a sufficient
20 extent that he or she is no longer able to perform any job
21 within such agency or department.

22 (4) If mutually agreed to by the employee and the
23 agency or department, an employee who has attained age 67 ~~65~~
24 may be reduced to a part-time position for the purpose of
25 phasing the employee out of employment into retirement. ~~Such~~
26 ~~an arrangement may also be required by the Public Employees~~
27 ~~Relations Commission as part of its decision in any appeal~~
28 ~~arising out of this section.~~A reduction to a part-time
29 position may be accompanied by an appropriate reduction in
30 pay.

31

1 Section 31. Section 110.171, Florida Statutes, is
2 renumbered as section 109.171, Florida Statutes, and paragraph
3 (c) of subsection (2) of that section is amended to read:

4 109.171 ~~110.171~~ State employee telecommuting
5 program.--

6 (2) The department shall:

7 (c) Identify state employees who are participating in
8 a telecommuting program and their job classifications through
9 the state personnel payroll information subsystem created
10 under s. 109.116 ~~110.116~~.

11 Section 32. Section 110.181, Florida Statutes, is
12 renumbered as section 109.181, Florida Statutes.

13 Section 33. Section 110.191, Florida Statutes, is
14 renumbered as section 109.191, Florida Statutes, and amended
15 to read:

16 109.191 ~~110.191~~ State employee leasing.--

17 (1) In situations where the Legislature has expressly
18 authorized the state, an agency, or the judicial branch as
19 defined in s. 109.203 ~~110.203~~ to lease employees, the
20 Executive Office of the Governor for the executive branch or
21 the Chief Justice for the judicial branch may authorize any of
22 the following actions related to such state employee leasing
23 activities, provided that the direct cost of such actions is
24 to be paid or reimbursed within 30 days after payment by the
25 entity or person to whom the employees are leased:

26 (a) Create a separate budget entity from which leased
27 employees shall be paid and transfer the positions authorized
28 to be leased to that budget entity.

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

30 (c) Authorized lump-sum salary bonuses to leased
31 employees; however, any lump-sum salary bonus above the

1 automatic salary increases which may be contained in the
2 General Appropriations Act must be funded from private
3 sources.

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

8 (e) Waive any requirement for automatic salary
9 increases which may be contained in the General Appropriations
10 Act.

11 (2) Positions which are in the Senior Management
12 Service System or the Selected Exempt Service System on the
13 day before the state employee lease agreement takes effect
14 shall remain in the respective system if the duties performed
15 by the position during the assignment of the state employee
16 lease agreement are comparable as determined by the
17 department. Those Senior Management Service System or Selected
18 Exempt Service System positions which are not determined
19 comparable by the department and positions which are in other
20 pay plans on the day before the lease agreement takes effect
21 shall have the same salaries and benefits provided to
22 employees of the Office of the Governor pursuant to s.
23 109.205(2)(1)2 ~~110.205(2)(1)2~~.

24 Section 34. Section 110.201, Florida Statutes, is
25 renumbered as section 109.201, Florida Statutes.

26 Section 35. Section 109.202, Florida Statutes, is
27 created to read:

28 109.202 Career Service System; declaration of
29 policy.--It is the purpose of this part to create a Career
30 Service System that ensures the delivery of high-quality
31 performance in career service classifications by facilitating

1 the state's ability to attract, select, and retain qualified
2 personnel in these positions based on initiative, while also
3 providing sufficient agency flexibility to ensure that the
4 workforce is responsive to public needs.

5 Section 36. Section 110.203, Florida Statutes, is
6 renumbered as section 109.203, Florida Statutes, and
7 subsections (18), (19), (22), and (23) of that section are
8 amended to read:

9 109.203 ~~110.203~~ Definitions.--For the purpose of this
10 part and the personnel affairs of the state:

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

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

23 (22) "Dismissal" means a disciplinary action taken by
24 an agency pursuant to s. 109.227 ~~110.227~~ against an employee
25 resulting in termination of his or her employment.

26 (23) "Suspension" means a disciplinary action taken by
27 an agency pursuant to s. 109.227 ~~110.227~~ against an employee
28 to temporarily relieve the employee of his or her duties and
29 place him or her on leave without pay.

30 Section 37. Section 109.2035, Florida Statutes, is
31 created to read:

1 109.2035 Civil service classification and compensation
2 program.--

3 (1) The Department of Management Services, in
4 consultation with the Executive Office of the Governor, the
5 Legislature, and the affected certified bargaining units,
6 shall develop a model civil service classification and
7 compensation program. This model program shall be developed
8 for use by all state agencies and shall address all career
9 service classes.

10 (2)(a) The model program shall consist of a vertical
11 incentive plan (VIP) using four vertical occupational groups
12 consisting of the following categories:

- 13 1. Executive appointments.
- 14 2. Administration.
- 15 3. Management.
- 16 4. Professional.

17 (b) Each vertical occupational group shall consist of
18 at least 6, but not more than 15, horizontal bands with
19 benchmarks at 2-year intervals as determined by the agency and
20 the Department of Management Services.

21 (c) Employees employed as other personal services
22 temporary employment shall not be included in the vertical
23 incentive plan. However, following 2 years of service, an
24 other personal services employee can acquire VIP status if the
25 initial benchmark as set by the agency and the department is
26 met.

27 (d) Other personal services employees shall serve at
28 the pleasure of the agency and such employees are exempt from
29 the provisions of chapter 120.

30
31

1 (e) The vertical incentive plan shall establish
2 equitable pay and benefits equitable to the position's
3 horizontal bands.

4 (3) The following goals shall be considered in
5 designing and implementing the model program:

6 (a) The VIP system must significantly reduce the need
7 to reclassify positions due to work assignment and
8 organizational changes by decreasing the number of
9 classification changes required.

10 (b) The VIP system and horizontal band plan must
11 emphasize self-incentive and job performance evaluation by
12 benchmarks rather than use of the classification system to
13 award salary increases.

14 (c) The executive appointments VIP classification
15 shall be exempt positions as defined by s. 109.205.

16 (d) The administration VIP classification shall not
17 exceed 7 percent of the total allocated employees to each
18 agency.

19 (e) The management VIP classification shall not exceed
20 a ratio of 1 to 10 of the total allocated employees to each
21 agency.

22 (f) Agencies may petition the Legislature for
23 additional management positions, not to exceed a 1-to-6 ratio,
24 for just cause.

25 (4) The Department of Management Services shall submit
26 the proposed design of the model civil service classification
27 and compensation program to the Executive Office of the
28 Governor, the presiding officers of the Legislature, and the
29 appropriate legislative fiscal and substantive standing
30 committees on or before December 1, 2003.

31

1 Section 38. Section 110.2037, Florida Statutes, is
2 renumbered as section 109.2037, Florida Statutes, and
3 subsections (4) and (6) of that section are amended to read:

4 109.2037 ~~110.2037~~ Alternative benefits; tax-sheltered
5 annual leave and sick leave payments and special compensation
6 payments.--

7 (4) Notwithstanding the terminal pay provisions of s.
8 109.122 ~~110.122~~, the department may contract for a
9 tax-sheltered plan for leave and special compensation pay for
10 employees terminating over age 55 with 10 years of service and
11 for employees participating in the Deferred Retirement Option
12 Program on or after July 1, 2001, and who are over age 55. The
13 frequency of payments into the plan shall be determined by the
14 department or as provided in the General Appropriations Act.
15 This plan or plans shall provide the greatest tax benefits to
16 the employees and maximize the savings to the state.

17 (6) Nothing in this section shall be construed to
18 remove plan participants from the scope of s. 109.122(5)
19 ~~110.122(5)~~.

20 Section 39. Section 110.205, Florida Statutes, is
21 renumbered as section 109.205, Florida Statutes, and
22 paragraphs (i) and (v) of subsection (2) and subsection (3) of
23 that section are amended to read:

24 109.205 ~~110.205~~ Career service; exemptions.--

25 (2) EXEMPT POSITIONS.--The exempt positions that are
26 not covered by this part include the following:

27 (i) All positions that are established for a limited
28 period of time for the purpose of conducting a special study,
29 project, or investigation and any person paid from an
30 other-personal-services appropriation. Unless otherwise fixed
31 by law, the salaries for such positions and persons shall be

1 set in accordance with rules established by the employing
2 agency for other-personal-services payments pursuant to s.
3 109.131 ~~110.131~~.

4 (v) Positions that are leased pursuant to a state
5 employee lease agreement expressly authorized by the
6 Legislature pursuant to s. 109.191 ~~110.191~~.

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

11 Section 40. Section 110.161, Florida Statutes, is
12 renumbered as section 109.161, Florida Statutes, and paragraph
13 (a) of subsection (6) of that section is amended to read:

14 109.161 ~~110.161~~ State employees; pretax benefits
15 program.--

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

21 (a) Shall allow employee contributions to premiums for
22 the state group insurance program administered under s.
23 109.123 ~~110.123~~ to be paid on a pretax basis unless an
24 employee elects not to participate.

25 Section 41. Sections 110.207, 110.209, and 110.21,
26 Florida Statutes, are renumbered as sections 109.207, 109.209,
27 and 109.21, Florida Statutes, respectively.

28 Section 42. Section 110.211, Florida Statutes, is
29 renumbered as section 109.211, Florida Statutes, and amended
30 to read:

31 109.211 ~~110.211~~ Recruitment.--

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

8 (2) Recruiting efforts to fill current or projected
9 vacancies shall be carried out in the sound discretion of the
10 agency head.

11 (3) Recruiting shall seek efficiency in advertising
12 and may be assisted by a contracted vendor responsible for
13 maintenance of the personnel data.

14 (4) All recruitment literature involving state
15 position vacancies shall contain the phrase "An Equal
16 Opportunity Employer/~~Affirmative Action Employer.~~"

17 Section 43. Sections 110.2135, 110.215, and 110.217,
18 Florida Statutes, are renumbered as sections 109.2135,
19 109.215, and 109.217, Florida Statutes, respectively.

20 Section 44. Section 110.219, Florida Statutes, is
21 renumbered as section 109.219, Florida Statutes, and paragraph
22 (c) of subsection (5) of that section is amended to read:

23 109.219 ~~110.219~~ Attendance and leave; general
24 policies.--

25 (5) Rules shall be adopted by the department in
26 cooperation and consultation with the agencies to implement
27 the provisions of this section; however, such rules must be
28 approved by the Administration Commission prior to their
29 adoption. Such rules must provide for, but need not be limited
30 to:

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

1 Section 45. Section 110.221, Florida Statutes, is
2 renumbered as section 109.221, Florida Statutes.

3 Section 46. Section 110.224, Florida Statutes, is
4 renumbered as section 109.224, Florida Statutes, and amended
5 to read:

6 109.224 ~~110.224~~ Review and Public employee performance
7 evaluation system.--A review and public employee performance
8 evaluation system shall be established as a basis to evaluate
9 and improve for evaluating and improving the performance of
10 the state's workforce, to inform employees of strong and weak
11 points in the employee's performance, and to identify training
12 needs, ~~and to award lump-sum bonuses in accordance with s.~~
13 ~~110.1245(2).~~

14 (1) Upon original appointment, promotion, demotion, or
15 reassignment, a job description of the position assigned must
16 be made available to the career service employee. The job
17 description may be made available in an electronic format.

18 (2) Each employee must have a performance evaluation
19 performed by a manager who is directly responsible for said
20 employee at least annually, and the employee must receive a
21 copy ~~an oral and written assessment~~ of his or her performance
22 evaluation. The performance evaluation may include a plan of
23 action for improvement of the employee's performance based on
24 the work expectations or performance standards applicable to
25 the position as determined by the agency head.

26 (3) Each manager must have a performance report
27 performed by immediate supervised employees at least
28 biannually and the manager must receive copies of his or her
29 performance report. The performance report shall be used to
30 improve management performance to achieve work expectations or
31

1 performance standards applicable to the position as determined
2 by the agency head.

3 ~~(4)(3)~~ The department may adopt rules to administer
4 the ~~public employee~~ performance evaluation system which
5 establish procedures for performance evaluation, review
6 periods, and forms.

7 Section 47. Section 110.227, Florida Statutes, is
8 renumbered as section 109.227, Florida Statutes, and amended
9 to read:

10 (Substantial rewording of section. See
11 s. 110.227, F.S., for present text.)

12 109.227 Suspensions, dismissals, reductions in pay,
13 demotions, layoffs, transfers, and grievances.--

14 (1) Any employee who has permanent status in the
15 career service may only be suspended or dismissed for
16 reasonable cause. Reasonable cause includes, but is not
17 limited to, negligence, inefficiency or inability to perform
18 assigned duties, insubordination, violation of the provisions
19 of law or agency rules, conduct unbecoming a public employee,
20 misconduct, habitual drug abuse, or conviction of any crime
21 involving moral turpitude. The agency head shall ensure that
22 all employees of the agency have access to the agency's
23 personnel manual.

24 (2) The department shall establish rules and
25 procedures for the suspension, reduction in pay, transfer,
26 layoff, demotion, and dismissal of employees in the career
27 service. Rules regarding layoff procedures shall include a
28 system whereby a career service employee with greater
29 seniority has the option of selecting a different position not
30 being eliminated within the horizontal band and within the
31 employee's vertical incentive plan, but already occupied by an

1 employee of less seniority, and taking that employee's
2 position, commonly referred to as "bumping." Such rules shall
3 be approved by the Administration Commission prior to their
4 adoption by the department. Layoff procedures shall be
5 developed to establish the relative merit and fitness of
6 employees and shall include a formula for uniform application
7 among potentially adversely affected employees taking into
8 consideration the type of appointment, the length of service,
9 and the evaluations of the employee's performance within the
10 last 5 years of employment within the horizontal band.

11 (3) Any permanent career service employee who is
12 subject to suspension or dismissal shall receive written
13 notice of such action at least 10 days prior to the date such
14 action is to be taken. Subsequent to such notice, and prior to
15 the date the action is to be taken, the affected employee
16 shall be given an opportunity to appear before the agency head
17 or the agency head's designee to rebut the conclusion that
18 reasonable grounds exist for the suspension or dismissal. The
19 notice to the employee required by this subsection may be
20 delivered to the employee personally or may be sent by
21 certified mail with return receipt requested. An employee who
22 is suspended for 8 working days or more or dismissed shall be
23 entitled to a hearing before the department or an outside,
24 private arbitration mediation board or peer review committee
25 chosen by the employee. Reasonable costs of hearing shall be
26 paid by the losing party.

27 (4) For any alleged adverse agency action against an
28 employee, the agency bears the burden of proof to establish a
29 preponderance of evidence that the employee should be
30 suspended, dismissed, receive reduction of pay, demoted, laid
31 off, or transferred.

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

13 (6) The department shall adopt rules for
14 administration of the grievance process for career service
15 employees. Such rules shall establish agency grievance
16 procedures, eligibility, filing deadlines, forms, and review
17 and evaluation governing the grievance process.

18 Section 48. Effective July 1, 2004, section 109.227,
19 Florida Statutes, as renumbered and amended by this act, is
20 amended to read:

21 (Substantial rewording of section. See
22 s. 109.227, F.S., for present text.)

23 109.227 Suspensions, dismissals, reductions in pay,
24 demotion, layoffs, transfers, and grievances.--

25 (1) Any permanent career service employee subject to
26 reduction in pay, transfer, layoff, or demotion from a class
27 in which he or she has permanent status in the Career Service
28 System shall be notified in writing by the agency prior to its
29 taking such action. The notice may be delivered to the
30 employee personally or may be sent by certified mail with
31 return receipt requested. As of July 1, 2004, such actions

1 shall be appealable as provided by this section, or the
2 aggrieved employee and his or her employer may agree to submit
3 to voluntary binding arbitration. Appeals based on the
4 protections provided by the Whistle-blower's Act, ss.
5 112.3187-112.31895, must be filed with the Commission on Human
6 Relations as provided for in that act.

7 (2)(a) Any permanent career service employee who is
8 subject to suspension or dismissal shall receive written
9 notice of such action at least 10 days prior to the date such
10 action shall be taken. The notice to the employee required by
11 this paragraph may be delivered to the employee personally or
12 may be sent by certified mail with return receipt requested.
13 As of July 1, 2004, an employee who is suspended or dismissed
14 shall be entitled to a hearing. Appeals based on the
15 protections provided by the Whistle-blower's Act, ss.
16 112.3187-112.31895, must be filed with the Commission on Human
17 Relations as provided for in that act.

18 (b) In extraordinary situations such as when the
19 retention of a permanent career service employee would result
20 in damage to state property, would be detrimental to the best
21 interest of the state, or would result in injury to the
22 employee, a fellow employee, or some other person, such
23 employee may be suspended or dismissed without 10 days' prior
24 notice. Such notice may be delivered to the employee
25 personally or may be sent by certified mail with return
26 receipt requested. Agency compliance with the foregoing
27 procedure requiring notice must be substantiated. As of July
28 1, 2004, any employee who is suspended or dismissed pursuant
29 to the provisions of this paragraph shall be entitled to a
30 hearing as provided in this section. Appeals based on the
31 protections provided by the Whistle-blower's Act, ss.

1 112.3187-112.31895, must be filed with the Commission on Human
2 Relations as provided for in that act.

3 (3) A grievance process shall be available to career
4 service employees only through the Department of Management
5 Services or a peer review committee. A grievance is defined as
6 the dissatisfaction that occurs when an employee believes that
7 any condition affecting the employee is unjust, inequitable,
8 or a hindrance to effective operation, or creates a problem,
9 except that an employee shall not have the right to file a
10 grievance against a performance evaluation unless the employee
11 alleges that the evaluation is based on factors other than the
12 employee's performance or was performed by a person other than
13 the employee's immediate supervisor. Claims of discrimination
14 and sexual harassment, suspensions, reductions in pay,
15 transfers, layoffs, demotions, and dismissals are not subject
16 to the career service grievance process.

17 (4) The department shall adopt rules for
18 administration of the grievance process for career service
19 employees. Such rules shall establish agency grievance
20 procedures; eligibility; filing deadlines, not to exceed 60
21 days; forms review; and evaluation governing the grievance
22 process.

23 Section 49. Section 110.233, Florida Statutes, is
24 renumbered as section 109.233, Florida Statutes, and paragraph
25 (a) of subsection (4) of that section is amended to read:

26 109.233 ~~110.233~~ Political activities and unlawful acts
27 prohibited.--

28 (4) As an individual, each employee retains all rights
29 and obligations of citizenship provided in the Constitution
30 and laws of the state and the Constitution and laws of the
31

1 United States. However, no employee in the career service
2 shall:

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

17 Section 50. Effective January 1, 2004, paragraph (n)
18 of subsection (2) of section 109.205, Florida Statutes, as
19 renumbered and amended by this act, is repealed.

20 Section 51. Effective January 1, 2004, section
21 109.241, Florida Statutes, is created to read:

22 109.241 Appeals of personnel actions; peer review
23 committees.--

24 (1) Peer review committees shall be appointed as
25 provided by this section for the purpose of hearing appeals of
26 permanent employees arising from personnel actions which
27 result in dismissal, suspension, demotion, transfer, or
28 reduction in pay. Reprimands, oral or written, and suspensions
29 of 7 working days or less shall not be appealable to such a
30 committee. No more than one such action of suspension may
31

1 occur within 1 calendar year without the right to appeal,
2 regardless of the length of the suspension.

3 (2)(a) Each peer review committee shall consist of
4 five employees assigned within the vertical incentive plan of
5 the employee's employment. Two members shall be selected by
6 the department, two members shall be selected by the employee
7 filing the appeal, and the fifth member, who shall serve as
8 chair of the committee, shall be selected by those four
9 members, with the concurrence of the department and the
10 employee requesting the hearing. Any person shall have the
11 right to decline to serve as a member of the committee.

12 Persons selected to serve on a committee shall serve without
13 additional compensation or overtime compensation with respect
14 to such service. Once selected to a committee, the members
15 shall serve until final action is taken by the committee with
16 respect to the purpose for which the committee was selected,
17 at which time the committee shall be dissolved.

18 (b) If the fifth member cannot be agreed upon within
19 10 working days after the appeal is submitted, then the
20 parties shall jointly request the federal Mediation and
21 Conciliation Service to furnish a panel of names of seven
22 arbitrators from which each party shall have the option,
23 within 5 working days after receipt, of striking three names
24 in alternating fashion. The seventh or remaining name shall
25 serve as the fifth member. The parties shall jointly notify
26 the arbitrator of his or selection. Either party may object to
27 all names on the list, if the objection is made prior to the
28 commencement of the striking process. If this occurs, the
29 objecting party may request the federal Mediation and
30 Conciliation Service to furnish another list of arbitrators.

31

1 No more than two lists may be requested. The cost of the
2 arbitrator shall be paid by the losing party.

3 (3)(a) An appeal of an action specified in subsection
4 (1) shall be made to the Secretary of Management Services in
5 writing, and must be received by the secretary no later than
6 14 calendar days after the employee is notified of the action
7 on which the appeal is based.

8 (b) A peer review committee shall be selected and must
9 meet for purposes of hearing the appeal no later than 30
10 working days after the selection of the chair of the committee
11 unless the time limit is extended by the committee or with the
12 mutual agreement of the parties to the proceeding.

13 (c) During any hearing, the employee filing the appeal
14 shall have the right to be heard publicly, to be represented
15 by a person of his or her choice, and to present any
16 evidential facts in his or her behalf. During such hearings,
17 the technical rules of evidence shall not apply. The committee
18 shall, in the conduct of such hearings, have the power to
19 administer oaths, issue subpoenas, compel the attendance of
20 witnesses, and require the production of books, records,
21 accounts, papers, documents, and testimony. In case of
22 disobedience of any person to comply with an order of the
23 committee or a subpoena issued by the committee or upon the
24 refusal of a witness to testify on any matter regarding which
25 he or she may be lawfully interrogated, a county judge of the
26 county in which the person resides, upon application of a
27 member of the committee, shall compel obedience by proceeding
28 as for contempt. Each witness who appears in obedience to a
29 subpoena before the committee shall receive compensation for
30 attendance, fees, and mileage as provided for witnesses in
31 civil cases in the courts of this state. Such payments shall

1 be made by the party calling the witness, except that with
2 respect to any witnesses called by the committee payments
3 shall be made by the department upon presentation of proper
4 vouchers and approval by three members of the board.

5 (d) The department shall bear the burden of
6 establishing that the adverse personnel action was for just
7 cause by a preponderance of the evidence presented and the
8 discipline imposed was appropriate under the circumstances.

9 (e) A committee shall by majority vote dispose of the
10 appeal for which it was appointed by making findings of fact
11 and issuing a written decision. Such decision shall either
12 sustain or not sustain the action being appealed. If the
13 action being appealed is not sustained by a committee, the
14 committee shall order such remedial action as is appropriate,
15 which may include reinstatement with back pay, and may modify
16 any personnel action which was the subject of the appeal. No
17 committee shall have the authority to impose on any employee
18 any penalty which is more harsh than that which formed the
19 basis of the appeal.

20 (f) The decision of the committee shall be final and
21 binding on the employee and the department.

22 (g) Any representative of a department, division, or
23 agency found to use other means to impose additional actions,
24 including, but not limited to, criminal or other civil action
25 as an attempt to undermine the findings of the committee or
26 arbitrator commits a felony of the third degree, punishable as
27 provided in s. 775.082, s. 775.083, or s. 775.084.

28 Section 52. Sections 110.401, 110.402, 110.403,
29 110.405, 110.406, 110.601, 110.602, 110.603, 110.604, 110.605,
30 and 110.606, Florida Statutes, are repealed.

31

1 Section 53. Section 110.501, Florida Statutes, is
2 renumbered as section 109.501, Florida Statutes.

3 Section 54. Section 110.502, Florida Statutes, is
4 renumbered as section 109.502, Florida Statutes, and
5 subsections (2) and (3) of that section are amended to read:

6 109.502 ~~110.502~~ Scope of act; status of volunteers.--

7 (2) Volunteers recruited, trained, or accepted by any
8 state department or agency shall not be subject to any
9 provisions of law relating to state employment, to any
10 collective bargaining agreement between the state and any
11 employees' association or union, or to any laws relating to
12 hours of work, rates of compensation, leave time, and employee
13 benefits, except those consistent with s. 109.504 ~~110.504~~.

14 However, all volunteers shall comply with applicable
15 department or agency rules.

16 (3) Every department or agency utilizing the services
17 of volunteers is hereby authorized to provide such incidental
18 reimbursement or benefit consistent with the provisions of s.
19 109.504 ~~110.504~~, including transportation costs, lodging, and
20 subsistence, recognition, and other accommodations as the
21 department or agency deems necessary to assist, recognize,
22 reward, or encourage volunteers in performing their functions.
23 No department or agency shall expend or authorize an
24 expenditure therefor in excess of the amount provided for to
25 the department or agency by appropriation in any fiscal year.

26 Section 55. Sections 110.503 and 110.504, Florida
27 Statutes, are renumbered as sections 109.503 and 109.504,
28 Florida Statutes, respectively.

29 Section 56. (1) Sections 109.105 through 109.191,
30 Florida Statutes, are designated as part I of chapter 109,

31

1 Florida Statutes, to be entitled "General State Employment
2 Provisions."

3 (2) Sections 109.201 through 109.241, Florida
4 Statutes, are designated as part II of chapter 109, Florida
5 Statutes, to be entitled "Career Service System."

6 (3) Sections 109.501 through 109.504, Florida
7 Statutes, are designated as part III of chapter 109, Florida
8 Statutes, to be entitled "Volunteers."

9 Section 57. Subsection (3) of section 20.18, Florida
10 Statutes, is amended to read:

11 20.18 Department of Community Affairs.--There is
12 created a Department of Community Affairs.

13 (3) Unless otherwise provided by law, the Secretary of
14 Community Affairs shall appoint the directors or executive
15 directors of any commission or council assigned to the
16 department, who shall serve at his or her pleasure as provided
17 for division directors in s. 109.205 ~~110.205~~. The appointment
18 or termination by the secretary will be done with the advice
19 and consent of the commission or council; and the director or
20 executive director may employ, subject to departmental rules
21 and procedures, such personnel as may be authorized and
22 necessary.

23 Section 58. Subsection (6) of section 20.21, Florida
24 Statutes, is amended to read:

25 20.21 Department of Revenue.--There is created a
26 Department of Revenue.

27 (6) Notwithstanding the provisions of s. 109.123
28 ~~110.123~~, relating to the state group insurance program, the
29 department may pay, or participate in the payment of, premiums
30 for health, accident, and life insurance for its full-time
31 out-of-state employees, pursuant to such rules as it may

1 adopt, and such payments shall be in addition to the regular
2 salaries of such full-time out-of-state employees.

3 Section 59. Paragraph (d) of subsection (1), paragraph
4 (h) of subsection (2), paragraphs (d), (f), and (i) of
5 subsection (3), paragraphs (c) and (d) of subsection (4), and
6 subsection (5) of section 20.23, Florida Statutes, are amended
7 to read:

8 20.23 Department of Transportation.--There is created
9 a Department of Transportation which shall be a decentralized
10 agency.

11 (1)

12 (d) Any secretary appointed after July 5, 1989, and
13 the assistant secretaries ~~shall be exempt from the provisions~~
14 ~~of part III of chapter 110 and shall receive compensation~~
15 commensurate with their qualifications and competitive with
16 compensation for comparable responsibility in the private
17 sector. ~~When the salary of any assistant secretary exceeds the~~
18 ~~limits established in part III of chapter 110, the Governor~~
19 ~~shall approve said salary.~~

20 (2)

21 (h) The commission shall appoint an executive director
22 and assistant executive director, who shall serve under the
23 direction, supervision, and control of the commission. The
24 executive director, with the consent of the commission, shall
25 employ such staff as are necessary to perform adequately the
26 functions of the commission, within budgetary limitations. All
27 employees of the commission are exempt from part II of chapter
28 109 ~~110~~ and shall serve at the pleasure of the commission. ~~The~~
29 ~~salaries and benefits of all employees of the commission shall~~
30 ~~be set in accordance with the Selected Exempt Service+~~
31 ~~provided, however, that~~ The commission shall have complete

1 authority for fixing the salary of the executive director and
2 assistant executive director.

3 (3)

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

6 a. Developing policy and procedures and monitoring
7 performance to ensure compliance with these policies and
8 procedures;

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

11 c. Assessing and ensuring the accuracy of information
12 within the department's financial management information
13 systems; and

14 d. Performing other activities of a statewide nature.

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

19 a. The Office of Administration;

20 b. The Office of Policy Planning;

21 c. The Office of Design;

22 d. The Office of Highway Operations;

23 e. The Office of Right-of-Way;

24 f. The Office of Toll Operations;

25 g. The Office of Information Systems; and

26 h. The Office of Motor Carrier Compliance.

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

1 4. During the construction of a major transportation
2 improvement project or as determined by the district
3 secretary, the department may provide assistance to a business
4 entity significantly impacted by the project if the entity is
5 a for-profit entity that has been in business for 3 years
6 prior to the beginning of construction and has direct or
7 shared access to the transportation project being constructed.
8 The assistance program shall be in the form of additional
9 guarantees to assist the impacted business entity in receiving
10 loans pursuant to Title 13 C.F.R. part 120. However, in no
11 instance shall the combined guarantees be greater than 90
12 percent of the loan. The department shall adopt rules to
13 implement this subparagraph.

14 (f)1. Within the central office there is created an
15 Office of Management and Budget. The head of the Office of
16 Management and Budget is responsible to the Assistant
17 Secretary for Finance and Administration and is exempt from
18 part II of chapter 109 ~~110~~.

19 2. The functions of the Office of Management and
20 Budget include, but are not limited to:
21 a. Preparation of the work program;
22 b. Preparation of the departmental budget; and
23 c. Coordination of related policies and procedures.

24 3. The Office of Management and Budget shall also be
25 responsible for developing uniform implementation and
26 monitoring procedures for all activities performed at the
27 district level involving the budget and the work program.

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

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

27 3. The department shall by rule or internal management
28 memoranda as required by chapter 120 provide for the
29 maintenance by the comptroller of financial records and
30 accounts of the department as will afford a full and complete
31 check against the improper payment of bills and provide a

1 system for the prompt payment of the just obligations of the
2 department, which records must at all times disclose:
3 a. The several appropriations available for the use of
4 the department;
5 b. The specific amounts of each such appropriation
6 budgeted by the department for each improvement or purpose;
7 c. The apportionment or division of all such
8 appropriations among the several counties and districts, when
9 such apportionment or division is made;
10 d. The amount or portion of each such apportionment
11 against general contractual and other liabilities then
12 created;
13 e. The amount expended and still to be expended in
14 connection with each contractual and other obligation of the
15 department;
16 f. The expense and operating costs of the various
17 activities of the department;
18 g. The receipts accruing to the department and the
19 distribution thereof;
20 h. The assets, investments, and liabilities of the
21 department; and
22 i. The cash requirements of the department for a
23 36-month period.
24 4. The comptroller shall maintain a separate account
25 for each fund administered by the department.
26 5. The comptroller shall perform such other related
27 duties as designated by the department.
28 (4)
29 (c) Each district secretary may appoint a district
30 director for planning and programming, a district director for
31

1 production, and a district director for operations. These
2 positions are exempt from part II of chapter 109 ~~110~~.

3 (d) Within each district, offices shall be established
4 for managing major functional responsibilities of the
5 department. The offices may include planning, design,
6 construction, right-of-way, maintenance, and public
7 transportation. The heads of these offices shall be exempt
8 from part II of chapter 109 ~~110~~.

9 ~~(5) Notwithstanding the provisions of s. 110.205, the~~
10 ~~Department of Management Services is authorized to exempt~~
11 ~~positions within the Department of Transportation which are~~
12 ~~comparable to positions within the Senior Management Service~~
13 ~~pursuant to s. 110.205(2)(j) or positions which are comparable~~
14 ~~to positions in the Selected Exempt Service under s.~~
15 ~~110.205(2)(m).~~

16 Section 60. Section 109.240, Florida Statutes, is
17 created to read:

18 109.240 Binding arbitration.--

19 (1) Upon receipt of notice of an adverse agency
20 action, any permanent career service employee may request
21 binding arbitration as allowed by s. 109.227. As used in this
22 section, "adverse agency action" means the suspension,
23 dismissal, reduction in pay or withholding of bonuses,
24 demotion, layoff, or transfer of an employee. Any eligible
25 employee choosing to participate in binding arbitration must
26 file a written request for arbitration with the division no
27 later than 14 days after the receipt of notice of the adverse
28 agency action.

29 (2) The arbitration request must be submitted on a
30 form prescribed by the division by rule. The form must be
31 signed by the employee and must include stipulations that:

1 (a) The employee is participating in binding
2 arbitration pursuant to this section.

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

6 (c) The employee will faithfully abide by the
7 arbitration order unless otherwise determined by a court of
8 competent jurisdiction.

9 (3) Upon receipt of the arbitration request, the
10 division shall provide written notice to the agency against
11 which a request is made regarding the employee request for
12 binding arbitration. Failure of the agency to meet
13 established deadlines as set forth by the Department of
14 Management Services rules shall bind that agency by the
15 stipulations contained in the arbitration request form.

16 (4) The employer bears the burden of establishing by a
17 preponderance of the evidence that the agency action met
18 criteria established by the Department of Management Services.

19 (5) Any party may be represented by counsel or another
20 appointed representative. The arbitrator must complete all
21 arbitration of the employee's claims raised in the request
22 within 60 days after receipt of the claim. The arbitrator may
23 extend the 60-day period upon request of the parties or at the
24 request of one party, after a hearing on that party's request
25 for extension.

26 (6)(a) The arbitrator selected by the division shall
27 be provided by the private sector and rotated from a pool of
28 approved lists maintained by the Department of Management
29 Services. Each selected arbitrator must, at a minimum, meet
30 the following requirements:

31

1 1. Completion of a Florida Supreme Court certified
2 circuit or county arbitration program, or other arbitration
3 program approved by the division, in addition to a minimum of
4 1 day of training in the application of this chapter and
5 chapter 447 and any rules adopted thereunder.

6 2. Compliance with the Code of Ethics for Arbitrators
7 in Employment Disputes published by the American Arbitration
8 Association and the American Bar Association in 1977, as
9 amended.

10 (b) The arbitrator shall have authority to commence
11 and adjourn the arbitration hearing. The arbitrator shall not
12 have authority to hold any person in contempt or to in any way
13 impose sanctions against any person.

14 (c) The arbitrator shall schedule all arbitration
15 proceedings, including the date, time, and location of such
16 proceedings and provide notice of the arbitration proceeding
17 to the parties at least 5 days in advance of the hearing date,
18 unless otherwise agreed to by the parties. The arbitrator has
19 the discretion to grant a continuance for reasonable cause.

20 (d) The arbitrator may set a preliminary conference
21 and require all parties to file a statement of position prior
22 to the conference. The statement of position may include
23 stipulations of the parties to uncontested facts and
24 applicable law, citations to all governing statutory or
25 regulatory laws that control the controversy, a list of issues
26 of fact and law that are in dispute, any proposals designed to
27 expedite the arbitration process, a list of documents
28 exchanged by the parties and a schedule for the delivery of
29 any additional relevant documents, identification of witnesses
30 expected to be called during the arbitration proceeding

31

1 accompanied by a short summary of their expected testimony,
2 and any other matters specified by the arbitrator.

3 (7) Unless otherwise provided in the decision, the
4 decision shall become final 10 days after its execution.

5 (8) The duties of the division in administering
6 binding arbitration pursuant to this section include, but are
7 not limited to, the following:

8 (a) Supporting the arbitration process, including the
9 filing and noticing of all arbitration requests, objections,
10 and other party communications, and the selection of the
11 arbitrator.

12 (b) Providing for the selection of the arbitrator,
13 which includes:

14 1. Providing selection notice to all parties, the
15 arbitrator, and participants.

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

24 3. Filling vacancies.

25 4. Compensating arbitrators, provided that an
26 arbitrator's fees and expenses shall be reasonable, for case
27 preparation, prehearing conferences, hearings, and preparation
28 of the arbitration order.

29 5. Making an electronic recording of each arbitration
30 proceeding, including preconference hearings, even when a
31

1 party chooses to make a stenographic recording of the
2 arbitration proceeding at that party's expense.

3 (c) Publishing the final arbitration order submitted
4 to the division and both parties by the arbitrator.

5 (9) The division shall maintain records of each
6 dispute submitted to binding arbitration, including the
7 recordings of the arbitration hearings. All records
8 maintained by the division under this section shall be public
9 records and shall be available for inspection upon reasonable
10 notice.

11 (10) The arbitration proceedings shall be governed by
12 the following procedural requirements:

13 (a) A party may object to the arbitrator based on the
14 arbitrator's past or present, direct or indirect, relationship
15 with either party or either party's attorney, whether that
16 relationship was or is financial, professional, or social. The
17 division shall consider any objection to the arbitrator,
18 determine its validity, and notify the parties of its
19 determination. If the objection is determined valid, the
20 division shall appoint another arbitrator.

21 (b) The arbitrator has the power to issue subpoenas,
22 and to effect discovery on the written request of any party by
23 any means available to the courts and in the manner provided
24 in the Florida Rules of Civil Procedure, including the
25 imposition of sanctions, excluding contempt. Fees for
26 attendance of witnesses shall be the same as that provided in
27 civil actions in circuit courts of this state.

28 (c) At all arbitration proceedings, the parties may
29 present oral and written testimony, present witnesses and
30 evidence relevant to the dispute, cross-examine witnesses, and
31 be represented by counsel. The arbitrator shall record the

1 arbitration hearing and shall have the power to administer
2 oaths.

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

8 (e) The decision shall be rendered within 10 days
9 after the closing of the hearing. The decision shall be in
10 writing on a form prescribed or adopted by the division. The
11 arbitrator shall send a copy of the decision to the parties by
12 registered mail.

13 (f) Unless otherwise provided, the arbitration
14 decision and any appeals thereof are exempt from the
15 provisions of chapter 120.

16 (11)(a) The division shall establish rules of
17 procedure governing the arbitration process. Such rules shall
18 include, but are not limited to:

19 1. The exchange and filing of information among the
20 parties.

21 2. Discovery.

22 3. Offering evidence.

23 4. Calling and excluding witnesses.

24 5. Submitting evidence by affidavit.

25 6. Attendance of the parties and witnesses.

26 7. The order of proceedings.

27 (b) The division may adopt additional rules to
28 implement this section.

29 (12) Either party may make application to the circuit
30 court for the county in which one of the parties resides or
31 has a place of business, or the county where the arbitration

1 hearing was held, for an order enforcing, vacating, or
2 modifying the arbitration decision. Such application must be
3 filed within 30 days after the later of the moving party's
4 receipt of the written decision or the date the decision
5 becomes final. Upon entry of any judgment or decree, the
6 moving party shall mail a copy of such judgment or decree to
7 the division. A review of such application to circuit court
8 shall be limited to review on the record and not de novo, of:

9 (a) Any alleged failure of the arbitrator to comply
10 with the applicable rules of procedure or evidence.

11 (b) Any alleged partiality or misconduct by an
12 arbitrator prejudicing the rights of any party.

13 (c) Whether the decision reaches a result contrary to
14 the United States Constitution or the Florida Constitution.

15
16 If the arbitrator fails to state findings or reasons for the
17 stated decision, or the findings and reasons are inadequate,
18 the court shall search the record to determine whether a basis
19 exists to uphold the decision.

20 (13) The division and the arbitrator shall have
21 absolute immunity from liability arising from the performance
22 of their duties while acting within the scope of their
23 appointed function in any arbitration conducted under this
24 section.

25 Section 61. Paragraph (b) of subsection (3) and
26 paragraph (e) of subsection (6) of section 20.315, Florida
27 Statutes, are amended to read:

28 20.315 Department of Corrections.--There is created a
29 Department of Corrections.

30 (3) SECRETARY OF CORRECTIONS.--The head of the
31 Department of Corrections is the Secretary of Corrections. The

1 secretary is appointed by the Governor, subject to
2 confirmation by the Senate, and shall serve at the pleasure of
3 the Governor. The secretary is responsible for planning,
4 coordinating, and managing the corrections system of the
5 state. The secretary shall ensure that the programs and
6 services of the department are administered in accordance with
7 state and federal laws, rules, and regulations, with
8 established program standards, and consistent with legislative
9 intent. The secretary shall identify the need for and
10 recommend funding for the secure and efficient operation of
11 the state correctional system.

12 (b) The secretary shall appoint a general counsel and
13 an inspector general, who are exempt from part II of chapter
14 109 ~~110~~ and are included in the Senior Management Service.

15 (6) FLORIDA CORRECTIONS COMMISSION.--

16 (e) The commission shall appoint an executive director
17 and an assistant executive director, who shall serve under the
18 direction, supervision, and control of the commission. The
19 executive director, with the consent of the commission, shall
20 employ such staff as are necessary to perform adequately the
21 functions of the commission, within budgetary limitations. All
22 employees of the commission are exempt from part II of chapter
23 109 ~~110~~ and serve at the pleasure of the commission. ~~The~~
24 ~~salaries and benefits of all employees of the commission shall~~
25 ~~be set in accordance with the Selected Exempt Service rules;~~
26 ~~however,~~ The commission shall have complete authority for
27 fixing the salaries of the executive director and the
28 assistant executive director. The executive director and staff
29 of the Task Force for Review of the Criminal Justice and
30 Corrections System, created under chapter 93-404, Laws of
31

1 Florida, shall serve as the staff for the commission until the
2 commission hires an executive director.

3 Section 62. Paragraph (d) of subsection (19) of
4 section 24.105, Florida Statutes, is amended to read:

5 24.105 Powers and duties of department.--The
6 department shall:

7 (19) Employ division directors and other staff as may
8 be necessary to carry out the provisions of this act; however:

9 (d) The department shall establish and maintain a
10 personnel program for its employees, including a personnel
11 classification and pay plan which may provide any or all of
12 the benefits provided in the Senior Management Service or
13 Selected Exempt Service. Each officer or employee of the
14 department shall be a member of the Florida Retirement System.
15 The retirement class of each officer or employee shall be the
16 same as other persons performing comparable functions for
17 other agencies. Employees of the department shall serve at the
18 pleasure of the secretary and shall be subject to suspension,
19 dismissal, reduction in pay, demotion, transfer, or other
20 personnel action at the discretion of the secretary. Such
21 personnel actions are exempt from the provisions of chapter
22 120. All employees of the department are exempt from the
23 Career Service System provided in chapter 109 ~~110~~ and,
24 notwithstanding the provisions of s. ~~110.205(5)~~, are not
25 included in either the Senior Management Service or the
26 ~~Selected Exempt Service~~. However, all employees of the
27 department are subject to all standards of conduct adopted by
28 rule for career service ~~and senior management~~ employees
29 pursuant to chapter 109 ~~110~~. In the event of a conflict
30 between standards of conduct applicable to employees of the
31 Department of the Lottery the more restrictive standard shall

1 apply. Interpretations as to the more restrictive standard may
2 be provided by the Commission on Ethics upon request of an
3 advisory opinion pursuant to s. 112.322(3)(a), for purposes of
4 this subsection the opinion shall be considered final action.

5 Section 63. Paragraph (d) of subsection (4) of section
6 24.122, Florida Statutes, is amended to read:

7 24.122 Exemption from taxation; state preemption;
8 inapplicability of other laws.--

9 (4) Any state or local law providing any penalty,
10 disability, restriction, or prohibition for the possession,
11 manufacture, transportation, distribution, advertising, or
12 sale of any lottery ticket, including chapter 849, shall not
13 apply to the tickets of the state lottery operated pursuant to
14 this act; nor shall any such law apply to the possession of a
15 ticket issued by any other government-operated lottery. In
16 addition, activities of the department under this act are
17 exempt from the provisions of:

18 (d) Section 109.131 ~~110.131~~, relating to other
19 personal services.

20 Section 64. Paragraph (a) of subsection (2) of section
21 63.097, Florida Statutes, is amended to read:

22 63.097 Fees.--

23 (2) The following fees, costs, and expenses may be
24 assessed by the adoption entity or paid by the adoption entity
25 on behalf of the prospective adoptive parents:

26 (a) Reasonable living expenses of the birth mother
27 which the birth mother is unable to pay due to unemployment,
28 underemployment, or disability due to the pregnancy which is
29 certified by a medical professional who has examined the birth
30 mother, or any other disability defined in s. 109.215 ~~110.215~~.
31 Reasonable living expenses are rent, utilities, basic

1 telephone service, food, necessary clothing, transportation,
2 and expenses found by the court to be necessary for the health
3 of the unborn child.

4 Section 65. Subsection (1) of section 68.087, Florida
5 Statutes, is amended to read:

6 68.087 Exemptions to civil actions.--

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

16 Section 66. Subsection (3) of section 104.31, Florida
17 Statutes, is amended to read:

18 104.31 Political activities of state, county, and
19 municipal officers and employees.--

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

27 Section 67. Subsection (3) of section 106.082, Florida
28 Statutes, is amended to read:

29 106.082 Commissioner of Agriculture candidates;
30 campaign contribution limits.--

31

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

18 Section 68. Subsection (4) of section 106.24, Florida
19 Statutes, is amended to read:

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

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

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

4 Section 69. Subsection (4) of section 112.044, Florida
5 Statutes, is amended to read:

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

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

21 Section 70. Subsection (2) of section 20.255, Florida
22 Statutes, is amended to read:

23 20.255 Department of Environmental Protection.--There
24 is created a Department of Environmental Protection.

25 (2)(a) There shall be three deputy secretaries who are
26 to be appointed by and shall serve at the pleasure of the
27 secretary. The secretary may assign any deputy secretary the
28 responsibility to supervise, coordinate, and formulate policy
29 for any division, office, or district. The following special
30 offices are established and headed by managers, each of whom

31

1 is to be appointed by and serve at the pleasure of the
2 secretary:

- 3 1. Office of Chief of Staff,
- 4 2. Office of General Counsel,
- 5 3. Office of Inspector General,
- 6 4. Office of External Affairs,
- 7 5. Office of Legislative and Government Affairs, and
- 8 6. Office of Greenways and Trails.

9 (b) There shall be six administrative districts
10 involved in regulatory matters of waste management, water
11 resource management, wetlands, and air resources, which shall
12 be headed by managers, each of whom is to be appointed by and
13 serve at the pleasure of the secretary. Divisions of the
14 department may have one assistant or two deputy division
15 directors, as required to facilitate effective operation.

16
17 The managers of all divisions and offices specifically named
18 in this section and the directors of the six administrative
19 districts are exempt from part II of chapter 109 ~~110~~ and are
20 included in the Senior Management Service in accordance with
21 ~~s. 110.205(2)(j)~~.

22 Section 71. Paragraph (a) of subsection (9) of section
23 112.313, Florida Statutes, is amended to read:

24 112.313 Standards of conduct for public officers,
25 employees of agencies, and local government attorneys.--

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

28 (a)1. It is the intent of the Legislature to implement
29 by statute the provisions of s. 8(e), Art. II of the State
30 Constitution relating to legislators, statewide elected

31

1 officers, appointed state officers, and designated public
2 employees.

3 2. As used in this paragraph:

4 a. "Employee" means:

5 (I) ~~Any person employed in the executive or~~
6 ~~legislative branch of government holding a position in the~~
7 ~~Senior Management Service as defined in s. 110.402 or Any~~
8 person holding a position in the Selected Exempt Service as
9 defined in s. 109.602 ~~110.602~~ or any person having authority
10 over policy or procurement employed by the Department of the
11 Lottery.

12 (II) The Auditor General, the director of the Office
13 of Program Policy Analysis and Government Accountability, the
14 Sergeant at Arms and Secretary of the Senate, and the Sergeant
15 at Arms and Clerk of the House of Representatives.

16 (III) The executive director of the Legislative
17 Committee on Intergovernmental Relations and the executive
18 director and deputy executive director of the Commission on
19 Ethics.

20 (IV) An executive director, staff director, or deputy
21 staff director of each joint committee, standing committee, or
22 select committee of the Legislature; an executive director,
23 staff director, executive assistant, analyst, or attorney of
24 the Office of the President of the Senate, the Office of the
25 Speaker of the House of Representatives, the Senate Majority
26 Party Office, Senate Minority Party Office, House Majority
27 Party Office, or House Minority Party Office; or any person,
28 hired on a contractual basis, having the power normally
29 conferred upon such persons, by whatever title.

30 (V) The Chancellor and Vice Chancellors of the State
31 University System; the general counsel to the Board of

1 Regents; and the president, vice presidents, and deans of each
2 state university.

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

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

12 c. "State agency" means an entity of the legislative,
13 executive, or judicial branch of state government over which
14 the Legislature exercises plenary budgetary and statutory
15 control.

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

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

31

1 5. Any person violating this paragraph shall be
2 subject to the penalties provided in s. 112.317 and a civil
3 penalty of an amount equal to the compensation which the
4 person receives for the prohibited conduct.

5 6. This paragraph is not applicable to:

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

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

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

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

17 e. Any appointed state officer whose term of office
18 began before January 1, 1995, unless reappointed to that
19 office on or after January 1, 1995.

20 Section 72. Paragraph (a) of subsection (5) of section
21 112.3189, Florida Statutes, is amended to read:

22 112.3189 Investigative procedures upon receipt of
23 whistle-blower information from certain state employees.--

24 (5)(a) If the Chief Inspector General or agency
25 inspector general under subsection (3) determines that the
26 information disclosed is the type of information described in
27 s. 112.3187(5), that the source of the information is from a
28 person who is an employee or former employee of, or an
29 applicant for employment with, a state agency, as defined in
30 s. 216.011, and that the information disclosed demonstrates
31 reasonable cause to suspect that an employee or agent of an

1 agency or independent contractor has violated any federal,
2 state, or local law, rule, or regulation, thereby creating a
3 substantial and specific danger to the public's health,
4 safety, or welfare, or has committed an act of gross
5 mismanagement, malfeasance, misfeasance, gross waste of public
6 funds, or gross neglect of duty, the Chief Inspector General
7 or agency inspector general making such determination shall
8 then conduct an investigation, unless the Chief Inspector
9 General or the agency inspector general determines, within 30
10 days after receiving the allegations from the complainant,
11 that such investigation is unnecessary. For purposes of this
12 subsection, the Chief Inspector General or the agency
13 inspector general shall consider the following factors, but is
14 not limited to only the following factors, when deciding
15 whether the investigation is not necessary:

16 1. The gravity of the disclosed information compared
17 to the time and expense of an investigation.

18 2. The potential for an investigation to yield
19 recommendations that will make state government more efficient
20 and effective.

21 3. The benefit to state government to have a final
22 report on the disclosed information.

23 4. Whether the alleged whistle-blower information
24 primarily concerns personnel practices that may be
25 investigated under chapter 109 ~~110~~.

26 5. Whether another agency may be conducting an
27 investigation and whether any investigation under this section
28 could be duplicative.

29 6. The time that has elapsed between the alleged event
30 and the disclosure of the information.

31

1 Section 73. Paragraph (a) of subsection (2) of section
2 112.363, Florida Statutes, is amended to read:

3 112.363 Retiree health insurance subsidy.--

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

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

15 Section 74. Subsection (38) of section 121.021,
16 Florida Statutes, is amended to read:

17 121.021 Definitions.--The following words and phrases
18 as used in this chapter have the respective meanings set forth
19 unless a different meaning is plainly required by the context:

20 (38) "Continuous service" means creditable service as
21 a member, beginning with the first day of employment with an
22 employer covered under a state-administered retirement system
23 consolidated herein and continuing for as long as the member
24 remains in an employer-employee relationship with an employer
25 covered under this chapter. An absence of 1 calendar month or
26 more from an employer's payroll shall be considered a break in
27 continuous service, except for periods of absence during which
28 an employer-employee relationship continues to exist and such
29 period of absence is creditable under this chapter or under
30 one of the existing systems consolidated herein. However, a
31 law enforcement officer as defined in s. 121.0515(2)(a) who

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

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

6 Section 75. Paragraph (b) of subsection (3) of section
7 121.0515, Florida Statutes, is amended to read:

8 121.0515 Special risk membership.--

9 (3) PROCEDURE FOR DESIGNATING.--

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

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

22 Section 76. Paragraph (a) of subsection (1) of section
23 121.055, Florida Statutes, is amended to read:

24 121.055 Senior Management Service Class.--There is
25 hereby established a separate class of membership within the
26 Florida Retirement System to be known as the "Senior
27 Management Service Class," which shall become effective
28 February 1, 1987.

29 (1)(a) Participation in the Senior Management Service
30 Class shall be limited to and compulsory for any member of the
31 Florida Retirement System who holds a position in the Senior

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

6 Section 77. Paragraph (a) of subsection (2) of section
7 121.35, Florida Statutes, is amended to read:

8 121.35 Optional retirement program for the State
9 University System.--

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

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

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

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

24 3. The Chancellor and the university presidents.

25 Section 78. Subsection (5) of section 215.94, Florida
26 Statutes, is amended to read:

27 215.94 Designation, duties, and responsibilities of
28 functional owners.--

29 (5) The Department of Management Services shall be the
30 functional owner of the Cooperative Personnel Employment
31 Subsystem. The department shall design, implement, and operate

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

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

11 (b) Recruitment and examination.

12 (c) Time reporting.

13 (d) Collective bargaining.

14 Section 79. Subsection (2) of section 216.011, Florida
15 Statutes, is amended to read:

16 216.011 Definitions.--

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

20 Section 80. Section 112.0805, Florida Statutes, is
21 amended to read:

22 112.0805 Employer notice of insurance eligibility to
23 employees who retire.--Any employer who provides insurance
24 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify
25 those employees who retire of their eligibility to participate
26 in either the same group insurance plan or self-insurance plan
27 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the
28 insurance coverage as provided by this law.

29 Section 81. Paragraph (a) of subsection (2) of section
30 216.251, Florida Statutes, is amended to read:

31 216.251 Salary appropriations; limitations.--

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

4 1. Within the classification and pay plans provided
5 for in chapter 109 ~~110~~.

6 2. Within the classification and pay plans established
7 by the Board of Trustees for the Florida School for the Deaf
8 and the Blind of the Department of Education and approved by
9 the State Board of Education for academic and academic
10 administrative personnel.

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

14 4. Within the classification and pay plan approved by
15 the President of the Senate and the Speaker of the House of
16 Representatives, as the case may be, for employees of the
17 Legislature.

18 5. Within the approved classification and pay plan for
19 the judicial branch.

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

23 Section 82. Subsection (9) of section 1001.28, Florida
24 Statutes, is amended to read:

25 1001.28 Distance learning duties.--The duties of the
26 Department of Education concerning distance learning include,
27 but are not limited to, the duty to:

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

1 Section 83. Subsection (19) of section 1001.74,
2 Florida Statutes, is amended to read:

3 1001.74 Powers and duties of university boards of
4 trustees.--

5 (19) Each board of trustees shall establish the
6 personnel program for all employees of the university,
7 including the president, pursuant to the provisions of chapter
8 1012 and, in accordance with rules and guidelines of the State
9 Board of Education, including: compensation and other
10 conditions of employment, recruitment and selection,
11 nonreappointment, standards for performance and conduct,
12 evaluation, benefits and hours of work, leave policies,
13 recognition and awards, inventions and works, travel, learning
14 opportunities, exchange programs, academic freedom and
15 responsibility, promotion, assignment, demotion, transfer,
16 tenure and permanent status, ethical obligations and conflicts
17 of interest, restrictive covenants, disciplinary actions,
18 complaints, appeals and grievance procedures, and separation
19 and termination from employment. The Department of Management
20 Services shall retain authority over state university
21 employees for programs established in ss. 109.123, 109.1232,
22 109.1234, and 109.1238 ~~110.123, 110.1232, 110.1234, and~~
23 ~~110.1238~~ and in chapters 121, 122, and 238.

24 Section 84. Paragraph (f) of subsection (4) of section
25 1002.36, Florida Statutes, is amended to read:

26 1002.36 Florida School for the Deaf and the Blind.--

27 (4) BOARD OF TRUSTEES.--

28 (f) The board of trustees shall:

29 1. Prepare and submit legislative budget requests,
30 including fixed capital outlay requests, in accordance with
31 chapter 216 and s. 1013.60.

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

10 3. Adopt a master plan which specifies the mission and
11 objectives of the Florida School for the Deaf and the Blind.
12 The plan shall include, but not be limited to, procedures for
13 systematically measuring the school's progress toward meeting
14 its objectives, analyzing changes in the student population,
15 and modifying school programs and services to respond to such
16 changes. The plan shall be for a period of 5 years and shall
17 be reviewed for needed modifications every 2 years. The board
18 of trustees shall submit the initial plan and subsequent
19 modifications to the Speaker of the House of Representatives
20 and the President of the Senate.

21 4. Seek the advice of the Division of Public Schools
22 within the Department of Education.

23 Section 85. Section 1012.62, Florida Statutes, is
24 amended to read:

25 1012.62 Transfer of sick leave and annual leave.--In
26 implementing the provisions of ss. 402.22(1)(d) and
27 1001.42(4)(n), educational personnel in Department of Children
28 and Family Services residential care facilities who are
29 employed by a district school board may request, and the
30 district school board shall accept, a lump-sum transfer of
31 accumulated sick leave for such personnel to the maximum

1 allowed by policies of the district school board,
2 notwithstanding the provisions of s. 109.122 ~~110.122~~.
3 Educational personnel in Department of Children and Family
4 Services residential care facilities who are employed by a
5 district school board under the provisions of s. 402.22(1)(d)
6 may request, and the district school board shall accept, a
7 lump-sum transfer of accumulated annual leave for each person
8 employed by the district school board in a position in the
9 district eligible to accrue vacation leave under policies of
10 the district school board.

11 Section 86. Section 1012.96, Florida Statutes, is
12 amended to read:

13 1012.96 IFAS extension personnel; federal health
14 insurance programs notwithstanding the provisions of s.
15 109.123 ~~110.123~~.--The Institute of Food and Agricultural
16 Sciences at the University of Florida may pay the employer's
17 share of premiums to the Federal Health Benefits Insurance
18 Program from its appropriated budget for any cooperative
19 extension employee of the institute having both state and
20 federal appointments and participating in the Federal Civil
21 Service Retirement System.

22 Section 87. Subsection (2) of section 260.0125,
23 Florida Statutes, is amended to read:

24 260.0125 Limitation on liability of private landowners
25 whose property is designated as part of the statewide system
26 of greenways and trails.--

27 (2) Any private landowner who consents to designation
28 of his or her land as part of the statewide system of
29 greenways and trails pursuant to s. 260.016(2)(d) without
30 compensation shall be considered a volunteer, as defined in s.
31

1 109.501 ~~110.501~~, and shall be covered by state liability
2 protection pursuant to s. 768.28, including s. 768.28(9).

3 Section 88. Section 287.175, Florida Statutes, is
4 amended to read:

5 287.175 Penalties.--A violation of this part or a rule
6 adopted hereunder, pursuant to applicable constitutional and
7 statutory procedures, constitutes misuse of public position as
8 defined in s. 112.313(6), and is punishable as provided in s.
9 112.317. The Comptroller shall report incidents of suspected
10 misuse to the Commission on Ethics, and the commission shall
11 investigate possible violations of this part or rules adopted
12 hereunder when reported by the Comptroller, notwithstanding
13 the provisions of s. 112.324. Any violation of this part or a
14 rule adopted hereunder shall be presumed to have been
15 committed with wrongful intent, but such presumption is
16 rebuttable. Nothing in this section is intended to deny rights
17 provided to career service employees by s. 109.227 ~~110.227~~.

18 Section 89. Paragraph (a) of subsection (4) of section
19 295.07, Florida Statutes, is amended to read:

20 295.07 Preference in appointment and retention.--

21 (4) The following positions are exempt from this
22 section:

23 (a) Those positions that are exempt from the state
24 Career Service System under s. 109.205(2) ~~110.205(2)~~; however,
25 all positions under the University Support Personnel System of
26 the State University System as well as all Career Service
27 System positions under the Florida Community College System
28 and the School for the Deaf and the Blind are included.

29 Section 90. Paragraph (b) of subsection (10) of
30 section 216.181, Florida Statutes, is amended to read:

31

1 216.181 Approved budgets for operations and fixed
2 capital outlay.--

3 (10)

4 (b) Lump-sum salary bonuses may be provided only if
5 specifically appropriated or provided pursuant to s. 109.1245
6 ~~110.1245~~ or s. 216.1815.

7 Section 91. Subsections (2) and (4) of section 296.34,
8 Florida Statutes, are amended to read:

9 296.34 Administrator; qualifications, duties, and
10 responsibilities.--

11 (2) The position shall be assigned to the Selected
12 Exempt Service under part V of chapter 109 ~~110~~. The director
13 shall give veterans preference in selecting an administrator,
14 as provided in ss. 295.07 and 295.085. The administrator, at
15 the time of entering employment and at all times while
16 employed as the administrator must hold a current valid
17 license as a nursing home administrator under part II of
18 chapter 468.

19 (4) All employees who fill authorized and established
20 positions appropriated for the home shall be state employees.
21 The department shall classify such employees in the manner
22 prescribed in chapter 109 ~~110~~.

23 Section 92. Subsection (5) of section 311.07, Florida
24 Statutes, is amended to read:

25 311.07 Florida seaport transportation and economic
26 development funding.--

27 (5) Any port which receives funding under the program
28 shall institute procedures to ensure that jobs created as a
29 result of the state funding shall be subject to equal
30 opportunity hiring practices in the manner provided in s.
31 109.112 ~~110.112~~.

1 Section 93. Paragraph (c) of subsection (1) of section
2 338.2216, Florida Statutes, is amended to read:

3 338.2216 Florida Turnpike Enterprise; powers and
4 authority.--

5 (1)

6 (c) The executive director of the turnpike enterprise
7 shall appoint a staff, which shall be exempt from part II of
8 chapter 109 ~~110~~. Among the staff shall be a chief financial
9 officer, who must be a proven, effective administrator with
10 demonstrated experience in financial management of a large
11 bonded capital program and must hold an active license to
12 practice public accounting in Florida pursuant to chapter 473.
13 The turnpike enterprise staff shall also include the Office of
14 Toll Operations.

15 Section 94. Paragraph (c) of subsection (10) of
16 section 339.175, Florida Statutes, is amended to read:

17 339.175 Metropolitan planning organization.--It is the
18 intent of the Legislature to encourage and promote the safe
19 and efficient management, operation, and development of
20 surface transportation systems that will serve the mobility
21 needs of people and freight within and through urbanized areas
22 of this state while minimizing transportation-related fuel
23 consumption and air pollution. To accomplish these objectives,
24 metropolitan planning organizations, referred to in this
25 section as M.P.O.'s, shall develop, in cooperation with the
26 state and public transit operators, transportation plans and
27 programs for metropolitan areas. The plans and programs for
28 each metropolitan area must provide for the development and
29 integrated management and operation of transportation systems
30 and facilities, including pedestrian walkways and bicycle
31 transportation facilities that will function as an intermodal

1 transportation system for the metropolitan area, based upon
2 the prevailing principles provided in s. 334.046(1). The
3 process for developing such plans and programs shall provide
4 for consideration of all modes of transportation and shall be
5 continuing, cooperative, and comprehensive, to the degree
6 appropriate, based on the complexity of the transportation
7 problems to be addressed.

8 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY
9 COUNCIL.--

10 (c) The powers and duties of the Metropolitan Planning
11 Organization Advisory Council are to:

12 1. Enter into contracts with individuals, private
13 corporations, and public agencies.

14 2. Acquire, own, operate, maintain, sell, or lease
15 personal property essential for the conduct of business.

16 3. Accept funds, grants, assistance, gifts, or
17 bequests from private, local, state, or federal sources.

18 4. Establish bylaws and adopt rules pursuant to ss.
19 120.536(1) and 120.54 to implement provisions of law
20 conferring powers or duties upon it.

21 5. Assist M.P.O.'s in carrying out the urbanized area
22 transportation planning process by serving as the principal
23 forum for collective policy discussion pursuant to law.

24 6. Serve as a clearinghouse for review and comment by
25 M.P.O.'s on the Florida Transportation Plan and on other
26 issues required to comply with federal or state law in
27 carrying out the urbanized area transportation and systematic
28 planning processes instituted pursuant to s. 339.155.

29 7. Employ an executive director and such other staff
30 as necessary to perform adequately the functions of the
31 council, within budgetary limitations. The executive director

1 and staff are exempt from part II of chapter 109 ~~110~~ and serve
2 at the direction and control of the council. The council is
3 assigned to the Office of the Secretary of the Department of
4 Transportation for fiscal and accountability purposes, but it
5 shall otherwise function independently of the control and
6 direction of the department.

7 8. Adopt an agency strategic plan that provides the
8 priority directions the agency will take to carry out its
9 mission within the context of the state comprehensive plan and
10 any other statutory mandates and directions given to the
11 agency.

12 Section 95. Subsection (4) of section 343.74, Florida
13 Statutes, is amended to read:

14 343.74 Powers and duties.--

15 (4) The authority shall institute procedures to ensure
16 that jobs created as a result of state funding pursuant to
17 this section shall be subject to equal opportunity hiring
18 practices as provided for in s. 109.112 ~~110.112~~.

19 Section 96. Section 373.6065, Florida Statutes, is
20 amended to read:

21 373.6065 Adoption benefits for water management
22 district employees.--

23 (1) Any employee of a water management district is
24 eligible to receive monetary benefits for child adoption to
25 the same extent as is an employee of the state, as described
26 in s. 109.152 ~~110.152~~. The employee shall apply for such
27 benefits pursuant to s. 109.15201 ~~110.15201~~.

28 (2) The Comptroller and the Department of Management
29 Services shall transfer funds to water management districts to
30 pay eligible water management district employees for these
31 child adoption monetary benefits in accordance with s.

1 215.32(1)(c)5., as long as funds remain available for the
2 program described under s. 109.152 ~~110.152~~.

3 (3) Parental leave for eligible water management
4 district employees shall be provided according to the policies
5 and procedures of the individual water management district in
6 existence at the time eligibility is determined.

7 (4) Each water management district shall develop means
8 of implementing these monetary adoption benefits for water
9 management district employees, consistent with its current
10 practices. Water management district rules, policies,
11 guidelines, or procedures so implemented will remain valid and
12 enforceable as long as they do not conflict with the express
13 terms of s. 109.152 ~~110.152~~.

14 Section 97. Subsection (2) of section 381.00315,
15 Florida Statutes, is amended to read:

16 381.00315 Public health advisories; public health
17 emergencies.--The State Health Officer is responsible for
18 declaring public health emergencies and issuing public health
19 advisories.

20 (2) Individuals who assist the State Health Officer at
21 his or her request on a volunteer basis during a public health
22 emergency are entitled to the benefits specified in s.
23 109.504(2), (3), (4), and (5) ~~110.504(2), (3), (4), and (5)~~.

24 Section 98. Paragraph (e) of subsection (3) of section
25 381.85, Florida Statutes, is amended to read:

26 381.85 Biomedical and social research.--

27 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL
28 RESEARCH.--

29 (e) The council shall be staffed by an executive
30 director and a secretary who shall be appointed by the council
31

1 and who shall be exempt from the provisions of part II of
2 chapter 109 ~~110~~ relating to the Career Service System.

3 Section 99. Section 393.0657, Florida Statutes, is
4 amended to read:

5 393.0657 Persons not required to be refingerprinted or
6 rescreened.--Any provision of law to the contrary
7 notwithstanding, human resource personnel who have been
8 fingerprinted or screened pursuant to chapters 393, 394, 397,
9 402, and 409, and teachers who have been fingerprinted
10 pursuant to chapter 1012, who have not been unemployed for
11 more than 90 days thereafter, and who under the penalty of
12 perjury attest to the completion of such fingerprinting or
13 screening and to compliance with the provisions of this
14 section and the standards for good moral character as
15 contained in such provisions as ss. 109.1127(3) ~~110.1127(3)~~,
16 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(5),
17 shall not be required to be refingerprinted or rescreened in
18 order to comply with any direct service provider screening or
19 fingerprinting requirements.

20 Section 100. Subsections (3) and (4) of section
21 296.04, Florida Statutes, are amended to read:

22 296.04 Administrator; duties and qualifications;
23 responsibilities.--

24 (3) The administrator position shall be assigned to
25 the Selected Exempt Service under part V of chapter 109 ~~110~~.
26 The director shall give veterans' preference in selecting an
27 administrator, as provided in ss. 295.07 and 295.085. In
28 addition, the administrator must have at least a 4-year degree
29 from an accredited university or college and 3 years of
30 administrative experience in a health care facility, or any
31 equivalent combination of experience, training, and education

1 totaling 7 years in work relating to administration of a
2 health care facility.

3 (4) All employees who fill authorized and established
4 positions appropriated for the home shall be state employees.
5 The department shall classify such employees in the manner
6 prescribed in chapter 109 ~~110~~.

7 Section 101. Subsection (3) of section 400.953,
8 Florida Statutes, is amended to read:

9 400.953 Background screening of home medical equipment
10 provider personnel.--The agency shall require employment
11 screening as provided in chapter 435, using the level 1
12 standards for screening set forth in that chapter, for home
13 medical equipment provider personnel.

14 (3) Proof of compliance with the screening
15 requirements of s. 109.1127 ~~110.1127~~, s. 393.0655, s.
16 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s.
17 464.008, or s. 985.407 or this part must be accepted in lieu
18 of the requirements of this section if the person has been
19 continuously employed in the same type of occupation for which
20 he or she is seeking employment without a breach in service
21 that exceeds 180 days, the proof of compliance is not more
22 than 2 years old, and the person has been screened by the
23 Department of Law Enforcement. An employer or contractor shall
24 directly provide proof of compliance to another employer or
25 contractor, and a potential employer or contractor may not
26 accept any proof of compliance directly from the person
27 requiring screening. Proof of compliance with the screening
28 requirements of this section shall be provided, upon request,
29 to the person screened by the home medical equipment provider.

30 Section 102. Section 402.3057, Florida Statutes, is
31 amended to read:

1 402.3057 Persons not required to be refingerprinted or
2 rescreened.--Any provision of law to the contrary
3 notwithstanding, human resource personnel who have been
4 fingerprinted or screened pursuant to chapters 393, 394, 397,
5 402, and 409, and teachers and noninstructional personnel who
6 have been fingerprinted pursuant to chapter 1012, who have not
7 been unemployed for more than 90 days thereafter, and who
8 under the penalty of perjury attest to the completion of such
9 fingerprinting or screening and to compliance with the
10 provisions of this section and the standards for good moral
11 character as contained in such provisions as ss. 109.1127(3)
12 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
13 409.175(5), shall not be required to be refingerprinted or
14 rescreened in order to comply with any caretaker screening or
15 fingerprinting requirements.

16 Section 103. Subsection (4) of section 402.55, Florida
17 Statutes, is amended to read:

18 402.55 Management fellows program.--

19 (4) Notwithstanding the provisions of chapter 109 ~~110~~,
20 the departments may grant special pay increases to management
21 fellows upon successful completion of the program.

22 Section 104. Subsection (2) of section 402.731,
23 Florida Statutes, is amended to read:

24 402.731 Department of Children and Family Services
25 certification programs for employees and service providers;
26 employment provisions for transition to community-based
27 care.--

28 (2) The department shall develop and implement
29 employment programs to attract and retain competent staff to
30 support and facilitate the transition to privatized
31 community-based care. Such employment programs shall include

1 lump-sum bonuses, salary incentives, relocation allowances, or
2 severance pay. The department shall also contract for the
3 delivery or administration of outplacement services. The
4 department shall establish time-limited exempt positions as
5 provided in s. 109.205(2)(i)~~110.205(2)(i)~~, in accordance with
6 the authority provided in s. 216.262(1)(c)1. Employees
7 appointed to fill such exempt positions shall have the same
8 salaries and benefits as career service employees.

9 Section 105. Section 409.1757, Florida Statutes, is
10 amended to read:

11 409.1757 Persons not required to be refingerprinted or
12 rescreened.--Any provision of law to the contrary
13 notwithstanding, human resource personnel who have been
14 fingerprinted or screened pursuant to chapters 393, 394, 397,
15 402, and this chapter, and teachers who have been
16 fingerprinted pursuant to chapter 1012, who have not been
17 unemployed for more than 90 days thereafter, and who under the
18 penalty of perjury attest to the completion of such
19 fingerprinting or screening and to compliance with the
20 provisions of this section and the standards for good moral
21 character as contained in such provisions as ss. 109.1127(3)
22 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
23 409.175(5), shall not be required to be refingerprinted or
24 rescreened in order to comply with any caretaker screening or
25 fingerprinting requirements.

26 Section 106. Section 409.9205, Florida Statutes, is
27 amended to read:

28 409.9205 Medicaid Fraud Control Unit.--

29 (1) Except as provided in s. 109.205 ~~110.205~~, all
30 positions in the Medicaid Fraud Control Unit of the Department
31

1 of Legal Affairs are hereby transferred to the Career Service
2 System.

3 (2) All investigators employed by the Medicaid Fraud
4 Control Unit who have been certified under s. 943.1395 are law
5 enforcement officers of the state. Such investigators have the
6 authority to conduct criminal investigations, bear arms, make
7 arrests, and apply for, serve, and execute search warrants,
8 arrest warrants, capias, and other process throughout the
9 state pertaining to Medicaid fraud as described in this
10 chapter. The Attorney General shall provide reasonable notice
11 of criminal investigations conducted by the Medicaid Fraud
12 Control Unit to, and coordinate those investigations with, the
13 sheriffs of the respective counties.

14 Section 107. Paragraph (o) of subsection (1) of
15 section 440.102, Florida Statutes, is amended to read:

16 440.102 Drug-free workplace program requirements.--The
17 following provisions apply to a drug-free workplace program
18 implemented pursuant to law or to rules adopted by the Agency
19 for Health Care Administration:

20 (1) DEFINITIONS.--Except where the context otherwise
21 requires, as used in this act:

22 (o) "Safety-sensitive position" means, with respect to
23 a public employer, a position in which a drug impairment
24 constitutes an immediate and direct threat to public health or
25 safety, such as a position that requires the employee to carry
26 a firearm, perform life-threatening procedures, work with
27 confidential information or documents pertaining to criminal
28 investigations, or work with controlled substances; a position
29 subject to s. 109.1127 ~~110.1127~~; or a position in which a
30 momentary lapse in attention could result in injury or death
31 to another person.

1 Section 108. Subsection (4) of section 443.171,
2 Florida Statutes, is amended to read:

3 443.171 Division and commission; powers and duties;
4 rules; advisory council; records and reports; proceedings;
5 state-federal cooperation.--

6 (4) PERSONNEL.--Subject to chapter 109 ~~110~~ and the
7 other provisions of this chapter, the division is authorized
8 to appoint, fix the compensation of, and prescribe the duties
9 and powers of such employees, accountants, attorneys, experts,
10 and other persons as may be necessary in the performance of
11 its duties under this chapter. The division may delegate to
12 any such person such power and authority as it deems
13 reasonable and proper for the effective administration of this
14 chapter and may in its discretion bond any person handling
15 moneys or signing checks hereunder; the cost of such bonds
16 shall be paid from the Employment Security Administration
17 Trust Fund.

18 Section 109. Subsection (8) and paragraph (a) of
19 subsection (9) of section 447.207, Florida Statutes, are
20 amended to read:

21 447.207 Commission; powers and duties.--

22 (8) The commission or its designated agent shall hear
23 appeals arising out of any suspension, reduction in pay,
24 demotion, or dismissal of any permanent employee in the State
25 Career Service System in the manner provided in s. 109.227
26 ~~110.227~~.

27 (9) Pursuant to s. 447.208, the commission or its
28 designated agent shall hear appeals, and enter such orders as
29 it deems appropriate, arising out of:

30
31

1 (a) Section 109.124 ~~110.124~~, relating to termination
2 or transfer of State Career Service System employees aged 67
3 ~~65~~ or older.

4 Section 110. Subsection (3) of section 400.19, Florida
5 Statutes, is amended to read:

6 400.19 Right of entry and inspection.--

7 (3) The agency shall every 15 months conduct at least
8 one unannounced inspection to determine compliance by the
9 licensee with statutes, and with rules promulgated under the
10 provisions of those statutes, governing minimum standards of
11 construction, quality and adequacy of care, and rights of
12 residents. The survey shall be conducted every 6 months for
13 the next 2-year period if the facility has been cited for a
14 class I deficiency, has been cited for two or more class II
15 deficiencies arising from separate surveys or investigations
16 within a 60-day period, or has had three or more substantiated
17 complaints within a 6-month period, each resulting in at least
18 one class I or class II deficiency. In addition to any other
19 fees or fines in this part, the agency shall assess a fine for
20 each facility that is subject to the 6-month survey cycle. The
21 fine for the 2-year period shall be \$6,000, one-half to be
22 paid at the completion of each survey. The agency may adjust
23 this fine by the change in the Consumer Price Index, based on
24 the 12 months immediately preceding the increase, to cover the
25 cost of the additional surveys. The agency shall verify
26 through subsequent inspection that any deficiency identified
27 during the annual inspection is corrected. However, the agency
28 may verify the correction of a class III or class IV
29 deficiency unrelated to resident rights or resident care
30 without reinspecting the facility if adequate written
31 documentation has been received from the facility, which

1 provides assurance that the deficiency has been corrected. The
2 giving or causing to be given of advance notice of such
3 unannounced inspections by an employee of the agency to any
4 unauthorized person shall constitute cause for suspension of
5 not fewer than 5 working days according to the provisions of
6 chapter 109 ~~110~~.

7 Section 111. Subsection (3) of section 471.038,
8 Florida Statutes, is amended to read:

9 471.038 Florida Engineers Management Corporation.--

10 (3) The Florida Engineers Management Corporation is
11 created to provide administrative, investigative, and
12 prosecutorial services to the board in accordance with the
13 provisions of chapter 455 and this chapter. The management
14 corporation may hire staff as necessary to carry out its
15 functions. Such staff are not public employees for the
16 purposes of chapter 109 ~~110~~ or chapter 112, except that the
17 board of directors and the staff are subject to the provisions
18 of s. 112.061. The provisions of s. 768.28 apply to the
19 management corporation, which is deemed to be a corporation
20 primarily acting as an instrumentality of the state, but which
21 is not an agency within the meaning of s. 20.03(11). The
22 management corporation shall:

23 (a) Be a Florida corporation not for profit,
24 incorporated under the provisions of chapter 617.

25 (b) Provide administrative, investigative, and
26 prosecutorial services to the board in accordance with the
27 provisions of chapter 455, this chapter, and the contract
28 required by this section.

29 (c) Receive, hold, and administer property and make
30 only prudent expenditures directly related to the

31

1 responsibilities of the board, and in accordance with the
2 contract required by this section.

3 (d) Be approved by the board and the department to
4 operate for the benefit of the board and in the best interest
5 of the state.

6 (e) Operate under a fiscal year that begins on July 1
7 of each year and ends on June 30 of the following year.

8 (f) Have a seven-member board of directors, five of
9 whom are to be appointed by the board and must be registrants
10 regulated by the board and two of whom are to be appointed by
11 the secretary and must be laypersons not regulated by the
12 board. All initial appointments shall expire on October 31,
13 2000. Current members may be appointed to one additional term
14 that complies with the provisions of this paragraph. Two
15 members shall be appointed for 2 years, three members shall be
16 appointed for 3 years, and two members shall be appointed for
17 4 years. One layperson shall be appointed to a 3-year term and
18 one layperson shall be appointed to a 4-year term. Thereafter,
19 all appointments shall be for 4-year terms. No new member
20 shall serve more than two consecutive terms. Failure to attend
21 three consecutive meetings shall be deemed a resignation from
22 the board, and the vacancy shall be filled by a new
23 appointment.

24 (g) Select its officers in accordance with its bylaws.
25 The members of the board of directors may be removed by the
26 board, with the concurrence of the department, for the same
27 reasons that a board member may be removed.

28 (h) Use a portion of the interest derived from the
29 management corporation account to offset the costs associated
30 with the use of credit cards for payment of fees by applicants
31 or licensees.

1 (i) Operate under an annual written contract with the
2 department which is approved by the board. The contract must
3 provide for, but is not limited to:

4 1. Approval of the articles of incorporation and
5 bylaws of the management corporation by the department and the
6 board.

7 2. Submission by the management corporation of an
8 annual budget that complies with board rules for approval by
9 the board and the department.

10 3. Annual certification by the board and the
11 department that the management corporation is complying with
12 the terms of the contract in a manner consistent with the
13 goals and purposes of the board and in the best interest of
14 the state. This certification must be reported in the board's
15 minutes. The contract must also provide for methods and
16 mechanisms to resolve any situation in which the certification
17 process determines noncompliance.

18 4. Employment by the department of a contract
19 administrator to actively supervise the administrative,
20 investigative, and prosecutorial activities of the management
21 corporation to ensure compliance with the contract and the
22 provisions of chapter 455 and this chapter and to act as a
23 liaison for the department, the board, and the management
24 corporation to ensure the effective operation of the
25 management corporation.

26 5. Funding of the management corporation through
27 appropriations allocated to the regulation of professional
28 engineers from the Professional Regulation Trust Fund.

29 6. The reversion to the board, or the state if the
30 board ceases to exist, of moneys, records, data, and property
31 held in trust by the management corporation for the benefit of

1 the board, if the management corporation is no longer approved
2 to operate for the board or the board ceases to exist. All
3 records and data in a computerized database shall be returned
4 to the department in a form that is compatible with the
5 computerized database of the department.

6 7. The securing and maintaining by the management
7 corporation, during the term of the contract and for all acts
8 performed during the term of the contract, of all liability
9 insurance coverages in an amount to be approved by the
10 department to defend, indemnify, and hold harmless the
11 management corporation and its officers and employees, the
12 department and its employees, and the state against all claims
13 arising from state and federal laws. Such insurance coverage
14 must be with insurers qualified and doing business in the
15 state. The management corporation must provide proof of
16 insurance to the department. The department and its employees
17 and the state are exempt from and are not liable for any sum
18 of money which represents a deductible, which sums shall be
19 the sole responsibility of the management corporation.
20 Violation of this subparagraph shall be grounds for
21 terminating the contract.

22 8. Payment by the management corporation, out of its
23 allocated budget, to the department of all costs of
24 representation by the board counsel, including salary and
25 benefits, travel, and any other compensation traditionally
26 paid by the department to other board counsels.

27 9. Payment by the management corporation, out of its
28 allocated budget, to the department of all costs incurred by
29 the management corporation or the board for the Division of
30 Administrative Hearings of the Department of Management

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1 Services and any other cost for utilization of these state
2 services.

3 10. Payment by the management corporation, out of its
4 allocated budget, to the department of all costs associated
5 with the contract administrator of the department, including
6 salary and benefits, travel, and other related costs
7 traditionally paid to state employees.

8 (j) Provide for an annual financial audit of its
9 financial accounts and records by an independent certified
10 public accountant. The annual audit report shall include a
11 management letter in accordance with s. 11.45 and a detailed
12 supplemental schedule of expenditures for each expenditure
13 category. The annual audit report must be submitted to the
14 board, the department, and the Auditor General for review.

15 (k) Provide for persons charged with the
16 responsibility of receiving and depositing fee and fine
17 revenues to have a faithful performance bond in such an amount
18 and according to such terms as shall be determined in the
19 contract.

20 (l) Submit to the secretary, the board, and the
21 Legislature, on or before January 1 of each year, a report on
22 the status of the corporation which includes, but is not
23 limited to, information concerning the programs and funds that
24 have been transferred to the corporation. The report must
25 include: the number of license applications received; the
26 number approved and denied and the number of licenses issued;
27 the number of examinations administered and the number of
28 applicants who passed or failed the examination; the number of
29 complaints received; the number determined to be legally
30 sufficient; the number dismissed; the number determined to
31 have probable cause; the number of administrative complaints

1 issued and the status of the complaints; and the number and
2 nature of disciplinary actions taken by the board.

3 (m) Develop, with the department, performance
4 standards and measurable outcomes for the board to adopt by
5 rule in order to facilitate efficient and cost-effective
6 regulation.

7 Section 112. Subsection (3) of section 509.036,
8 Florida Statutes, is amended to read:

9 509.036 Public food service inspector
10 standardization.--

11 (3) The division and its agent shall adopt rules in
12 accordance with the provisions of chapter 120 to provide for
13 disciplinary action in cases of inspector negligence. An
14 inspector may be subject to suspension or dismissal for
15 reasonable cause as set forth in s. 109.227 ~~110.227~~.

16 Section 113. Subsection (1) of section 570.073,
17 Florida Statutes, is amended to read:

18 570.073 Department of Agriculture and Consumer
19 Services, law enforcement officers.--

20 (1) The commissioner may create an Office of
21 Agricultural Law Enforcement under the supervision of a senior
22 manager exempt under s. 109.205 ~~110.205 in the Senior~~
23 ~~Management Service~~. The commissioner may designate law
24 enforcement officers, as necessary, to enforce any criminal
25 law or conduct any criminal investigation or to enforce the
26 provisions of any statute or any other laws of this state.
27 Officers appointed under this section shall have the primary
28 responsibility for enforcing laws relating to agriculture and
29 consumer services, as outlined in this section, and have
30 jurisdiction over violations of law which threaten the overall
31 security and safety of this state's agriculture and consumer

1 services. The primary responsibilities of officers appointed
2 under this section include the enforcement of laws relating
3 to:

4 (a) Domesticated animals, including livestock,
5 poultry, aquaculture products, and other wild or domesticated
6 animals or animal products.

7 (b) Farms, farm equipment, livery tack, citrus or
8 citrus products, or horticultural products.

9 (c) Trespass, littering, forests, forest fires, and
10 open burning.

11 (d) Damage to or theft of forest products.

12 (e) Enforcement of a marketing order.

13 (f) Protection of consumers.

14 (g) Civil traffic offenses as provided in state law.

15 (h) The use of alcohol or drugs which occurs on
16 property owned, managed, or occupied by the department.

17 (i) Any emergency situation in which the life, limb,
18 or property of any person is placed in immediate and serious
19 danger.

20 (j) Any crime incidental to or related to paragraphs
21 (a)-(i).

22 (k) The responsibilities of the Commissioner of
23 Agriculture.

24 Section 114. Section 570.074, Florida Statutes, is
25 amended to read:

26 570.074 Department of Agriculture and Consumer
27 Services; water policy coordination.--The commissioner may
28 create an Office of Water Coordination under the supervision
29 of a senior manager exempt under s. 109.205 ~~110.205~~ in the
30 ~~Senior Management Service~~. The commissioner may designate the
31 bureaus and positions in the various organizational divisions

1 of the department that report to this office relating to any
2 matter over which the department has jurisdiction in matters
3 relating to water policy affecting agriculture, application of
4 such policies, and coordination of such matters with state and
5 federal agencies.

6 Section 115. Subsection (6) of section 624.307,
7 Florida Statutes, is amended to read:

8 624.307 General powers; duties.--

9 (6) The department may employ actuaries who shall be
10 at-will employees and who shall serve at the pleasure of the
11 Insurance Commissioner. Actuaries employed pursuant to this
12 paragraph shall be members of the Society of Actuaries or the
13 Casualty Actuarial Society and shall be exempt from the Career
14 Service System established under chapter 109 ~~110~~. The salaries
15 of the actuaries employed pursuant to this paragraph by the
16 department shall be set in accordance with s. 216.251(2)(a)5.
17 and shall be set at levels which are commensurate with salary
18 levels paid to actuaries by the insurance industry.

19 Section 116. Subsection (4) of section 627.0623,
20 Florida Statutes, is amended to read:

21 627.0623 Restrictions on expenditures and
22 solicitations of insurers and affiliates.--

23 (4) No employee of the department may solicit a
24 campaign contribution for the Treasurer or any candidate for
25 the office of Treasurer from any insurer, affiliate, or
26 officer of an insurer or affiliate, or any political committee
27 or committee of continuous existence that represents such
28 insurer, affiliate, or officer. For purposes of this section,
29 "employee of the department" means any person employed in the
30 Department of Insurance or the Treasurer's office ~~holding a~~
31 ~~position in the Senior Management Service as defined in s.~~

1 ~~110.402; any person holding a position in the Selected Exempt~~
2 ~~Service as defined in s. 110.602; any person~~ having authority
3 over insurance policy, regulation, or supervision; or any
4 person hired on a contractual basis, having the power normally
5 conferred upon such person, by whatever title.

6 Section 117. Paragraph (h) of subsection (4) of
7 section 627.6488, Florida Statutes, is amended to read:

8 627.6488 Florida Comprehensive Health Association.--

9 (4) The association shall:

10 (h) Contract with preferred provider organizations and
11 health maintenance organizations giving due consideration to
12 the preferred provider organizations and health maintenance
13 organizations which have contracted with the state group
14 health insurance program pursuant to s. 109.123 ~~110.123~~. If
15 cost-effective and available in the county where the
16 policyholder resides, the board, upon application or renewal
17 of a policy, shall place a high-risk individual, as
18 established under s. 627.6498(4)(a)4., with the plan case
19 manager who shall determine the most cost-effective quality
20 care system or health care provider and shall place the
21 individual in such system or with such health care provider.
22 If cost-effective and available in the county where the
23 policyholder resides, the board, with the consent of the
24 policyholder, may place a low-risk or medium-risk individual,
25 as established under s. 627.6498(4)(a)4., with the plan case
26 manager who may determine the most cost-effective quality care
27 system or health care provider and shall place the individual
28 in such system or with such health care provider. Prior to and
29 during the implementation of case management, the plan case
30 manager shall obtain input from the policyholder, parent, or
31 guardian.

1 Section 118. Paragraph (a) of subsection (1) of
2 section 627.649, Florida Statutes, is amended to read:

3 627.649 Administrator.--

4 (1) The board shall select an administrator, through a
5 competitive bidding process, to administer the plan. The board
6 shall evaluate bids submitted under this subsection based on
7 criteria established by the board, which criteria shall
8 include:

9 (a) The administrator's proven ability to handle large
10 group accident and health insurance, and due consideration
11 shall be given to any administrator who has acted as a
12 third-party administrator for the state group health insurance
13 program pursuant to s. 109.123 ~~110.123~~.

14 Section 119. Paragraph (a) of subsection (2) and
15 subsection (3) of section 627.6498, Florida Statutes, are
16 amended to read:

17 627.6498 Minimum benefits coverage; exclusions;
18 premiums; deductibles.--

19 (2) BENEFITS.--

20 (a) The plan shall offer major medical expense
21 coverage similar to that provided by the state group health
22 insurance program as defined in s. 109.123 ~~110.123~~ except as
23 specified in subsection (3) to every eligible person who is
24 not eligible for Medicare. Major medical expense coverage
25 offered under the plan shall pay an eligible person's covered
26 expenses, subject to limits on the deductible and coinsurance
27 payments authorized under subsection (4), up to a lifetime
28 limit of \$500,000 per covered individual. The maximum limit
29 under this paragraph shall not be altered by the board, and no
30 actuarially equivalent benefit may be substituted by the
31 board.

1 (3) COVERED EXPENSES.--The coverage to be issued by
2 the association shall be patterned after the state group
3 health insurance program as defined in s. 109.123 ~~110.123~~,
4 including its benefits, exclusions, and other limitations,
5 except as otherwise provided in this act. The plan may cover
6 the cost of experimental drugs which have been approved for
7 use by the Food and Drug Administration on an experimental
8 basis if the cost is less than the usual and customary
9 treatment. Such coverage shall only apply to those insureds
10 who are in the case management system upon the approval of the
11 insured, the case manager, and the board.

12 Section 120. Paragraph (a) of subsection (2) of
13 section 456.048, Florida Statutes, is amended to read:

14 456.048 Financial responsibility requirements for
15 certain health care practitioners.--

16 (2) The board or department may grant exemptions upon
17 application by practitioners meeting any of the following
18 criteria:

19 (a) Any person licensed under chapter 457, chapter
20 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who
21 practices exclusively as an officer, employee, or agent of the
22 Federal Government or of the state or its agencies or its
23 subdivisions. For the purposes of this subsection, an agent of
24 the state, its agencies, or its subdivisions is a person who
25 is eligible for coverage under any self-insurance or insurance
26 program authorized by the provisions of s. 768.28(15) or who
27 is a volunteer under s. 109.501(1)~~110.501(1)~~.

28 Section 121. Subsection (3) of section 655.019,
29 Florida Statutes, is amended to read:

30 655.019 Campaign contributions; limitations.--

31

1 (3) No employee of the department may solicit a
2 campaign contribution for the Comptroller or any candidate for
3 the office of the Comptroller from any person who is licensed
4 or otherwise authorized to do business by the department or
5 who has an application pending for licensure or other
6 authorization to do business pending with the department, or
7 any director, officer, employee, agent, retained legal
8 counsel, lobbyist, or partner or affiliate of that person or
9 any political committee or committee of continuous existence
10 that represents that person. For purposes of this section,
11 "employee of the department" means any person employed in the
12 department or the Comptroller's office ~~holding a position in~~
13 ~~the Senior Management Service as defined in s. 110.402; any~~
14 ~~person holding a position in the Selected Exempt Service as~~
15 ~~defined in s. 110.602; any person having authority over~~
16 institution policy, regulation, or supervision; or any person
17 hired on a contractual basis, having the power normally
18 conferred upon such person, by whatever title.

19 Section 122. Paragraph (a) of subsection (4) of
20 section 943.0585, Florida Statutes, is amended to read:

21 943.0585 Court-ordered expunction of criminal history
22 records.--The courts of this state have jurisdiction over
23 their own procedures, including the maintenance, expunction,
24 and correction of judicial records containing criminal history
25 information to the extent such procedures are not inconsistent
26 with the conditions, responsibilities, and duties established
27 by this section. Any court of competent jurisdiction may order
28 a criminal justice agency to expunge the criminal history
29 record of a minor or an adult who complies with the
30 requirements of this section. The court shall not order a
31 criminal justice agency to expunge a criminal history record

1 until the person seeking to expunge a criminal history record
2 has applied for and received a certificate of eligibility for
3 expunction pursuant to subsection (2). A criminal history
4 record that relates to a violation of s. 787.025, chapter 794,
5 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
6 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
7 893.135, or a violation enumerated in s. 907.041 may not be
8 expunged, without regard to whether adjudication was withheld,
9 if the defendant was found guilty of or pled guilty or nolo
10 contendere to the offense, or if the defendant, as a minor,
11 was found to have committed, or pled guilty or nolo contendere
12 to committing, the offense as a delinquent act. The court may
13 only order expunction of a criminal history record pertaining
14 to one arrest or one incident of alleged criminal activity,
15 except as provided in this section. The court may, at its sole
16 discretion, order the expunction of a criminal history record
17 pertaining to more than one arrest if the additional arrests
18 directly relate to the original arrest. If the court intends
19 to order the expunction of records pertaining to such
20 additional arrests, such intent must be specified in the
21 order. A criminal justice agency may not expunge any record
22 pertaining to such additional arrests if the order to expunge
23 does not articulate the intention of the court to expunge a
24 record pertaining to more than one arrest. This section does
25 not prevent the court from ordering the expunction of only a
26 portion of a criminal history record pertaining to one arrest
27 or one incident of alleged criminal activity. Notwithstanding
28 any law to the contrary, a criminal justice agency may comply
29 with laws, court orders, and official requests of other
30 jurisdictions relating to expunction, correction, or
31 confidential handling of criminal history records or

1 information derived therefrom. This section does not confer
2 any right to the expunction of any criminal history record,
3 and any request for expunction of a criminal history record
4 may be denied at the sole discretion of the court.

5 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
6 criminal history record of a minor or an adult which is
7 ordered expunged by a court of competent jurisdiction pursuant
8 to this section must be physically destroyed or obliterated by
9 any criminal justice agency having custody of such record;
10 except that any criminal history record in the custody of the
11 department must be retained in all cases. A criminal history
12 record ordered expunged that is retained by the department is
13 confidential and exempt from the provisions of s. 119.07(1)
14 and s. 24(a), Art. I of the State Constitution and not
15 available to any person or entity except upon order of a court
16 of competent jurisdiction. A criminal justice agency may
17 retain a notation indicating compliance with an order to
18 expunge.

19 (a) The person who is the subject of a criminal
20 history record that is expunged under this section or under
21 other provisions of law, including former s. 893.14, former s.
22 901.33, and former s. 943.058, may lawfully deny or fail to
23 acknowledge the arrests covered by the expunged record, except
24 when the subject of the record:

- 25 1. Is a candidate for employment with a criminal
26 justice agency;
27 2. Is a defendant in a criminal prosecution;
28 3. Concurrently or subsequently petitions for relief
29 under this section or s. 943.059;
30 4. Is a candidate for admission to The Florida Bar;
31

1 5. Is seeking to be employed or licensed by or to
2 contract with the Department of Children and Family Services
3 or the Department of Juvenile Justice or to be employed or
4 used by such contractor or licensee in a sensitive position
5 having direct contact with children, the developmentally
6 disabled, the aged, or the elderly as provided in s.
7 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
8 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
9 415.102(4), s. 985.407, or chapter 400; or

10 6. Is seeking to be employed or licensed by the Office
11 of Teacher Education, Certification, Staff Development, and
12 Professional Practices of the Department of Education, any
13 district school board, or any local governmental entity that
14 licenses child care facilities.

15 Section 123. Paragraph (a) of subsection (4) of
16 section 943.059, Florida Statutes, is amended to read:

17 943.059 Court-ordered sealing of criminal history
18 records.--The courts of this state shall continue to have
19 jurisdiction over their own procedures, including the
20 maintenance, sealing, and correction of judicial records
21 containing criminal history information to the extent such
22 procedures are not inconsistent with the conditions,
23 responsibilities, and duties established by this section. Any
24 court of competent jurisdiction may order a criminal justice
25 agency to seal the criminal history record of a minor or an
26 adult who complies with the requirements of this section. The
27 court shall not order a criminal justice agency to seal a
28 criminal history record until the person seeking to seal a
29 criminal history record has applied for and received a
30 certificate of eligibility for sealing pursuant to subsection
31 (2). A criminal history record that relates to a violation of

1 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
2 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
3 s. 847.0145, s. 893.135, or a violation enumerated in s.
4 907.041 may not be sealed, without regard to whether
5 adjudication was withheld, if the defendant was found guilty
6 of or pled guilty or nolo contendere to the offense, or if the
7 defendant, as a minor, was found to have committed or pled
8 guilty or nolo contendere to committing the offense as a
9 delinquent act. The court may only order sealing of a criminal
10 history record pertaining to one arrest or one incident of
11 alleged criminal activity, except as provided in this section.
12 The court may, at its sole discretion, order the sealing of a
13 criminal history record pertaining to more than one arrest if
14 the additional arrests directly relate to the original arrest.
15 If the court intends to order the sealing of records
16 pertaining to such additional arrests, such intent must be
17 specified in the order. A criminal justice agency may not seal
18 any record pertaining to such additional arrests if the order
19 to seal does not articulate the intention of the court to seal
20 records pertaining to more than one arrest. This section does
21 not prevent the court from ordering the sealing of only a
22 portion of a criminal history record pertaining to one arrest
23 or one incident of alleged criminal activity. Notwithstanding
24 any law to the contrary, a criminal justice agency may comply
25 with laws, court orders, and official requests of other
26 jurisdictions relating to sealing, correction, or confidential
27 handling of criminal history records or information derived
28 therefrom. This section does not confer any right to the
29 sealing of any criminal history record, and any request for
30 sealing a criminal history record may be denied at the sole
31 discretion of the court.

1 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
2 criminal history record of a minor or an adult which is
3 ordered sealed by a court of competent jurisdiction pursuant
4 to this section is confidential and exempt from the provisions
5 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
6 and is available only to the person who is the subject of the
7 record, to the subject's attorney, to criminal justice
8 agencies for their respective criminal justice purposes, or to
9 those entities set forth in subparagraphs (a)1., 4., 5., and
10 6. for their respective licensing and employment purposes.

11 (a) The subject of a criminal history record sealed
12 under this section or under other provisions of law, including
13 former s. 893.14, former s. 901.33, and former s. 943.058, may
14 lawfully deny or fail to acknowledge the arrests covered by
15 the sealed record, except when the subject of the record:

- 16 1. Is a candidate for employment with a criminal
17 justice agency;
- 18 2. Is a defendant in a criminal prosecution;
- 19 3. Concurrently or subsequently petitions for relief
20 under this section or s. 943.0585;
- 21 4. Is a candidate for admission to The Florida Bar;
- 22 5. Is seeking to be employed or licensed by or to
23 contract with the Department of Children and Family Services
24 or the Department of Juvenile Justice or to be employed or
25 used by such contractor or licensee in a sensitive position
26 having direct contact with children, the developmentally
27 disabled, the aged, or the elderly as provided in s.
28 109.1127(3)~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s.
29 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
30 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

31

1 6. Is seeking to be employed or licensed by the Office
2 of Teacher Education, Certification, Staff Development, and
3 Professional Practices of the Department of Education, any
4 district school board, or any local governmental entity which
5 licenses child care facilities.

6 Section 124. Subsection (4) of section 943.22, Florida
7 Statutes, is amended to read:

8 943.22 Salary incentive program for full-time
9 officers.--

10 ~~(4) No individual filling a position in the Senior~~
11 ~~Management Service as defined in s. 110.402 is eligible to~~
12 ~~participate in the salary incentive program authorized by this~~
13 ~~section.~~

14 Section 125. Paragraph (d) of subsection (4) of
15 section 943.61, Florida Statutes, is amended to read:

16 943.61 Powers and duties of the Capitol Police.--

17 (4) The Capitol Police shall have the following powers
18 and duties:

19 (d) To employ officers who hold certification as law
20 enforcement officers in accordance with the minimum standards
21 and qualifications as set forth in s. 943.13 and the
22 provisions of chapter 109 ~~110~~, and who have the authority to
23 bear arms, make arrests, except as may be limited in the
24 security plans established under paragraph (a), and apply for
25 arrest warrants.

26 Section 126. Paragraph (c) of subsection (3) of
27 section 944.35, Florida Statutes, is amended to read:

28 944.35 Authorized use of force; malicious battery and
29 sexual misconduct prohibited; reporting required; penalties.--

30 (3)

31

1 (c) Notwithstanding prosecution, any violation of the
2 provisions of this subsection, as determined by the Public
3 Employees Relations Commission, shall constitute sufficient
4 cause under s. 109.227 ~~110.227~~ for dismissal from employment
5 with the department, and such person shall not again be
6 employed in any capacity in connection with the correctional
7 system.

8 Section 127. Subsection (2) of section 945.043,
9 Florida Statutes, is amended to read:

10 945.043 Department-operated day care services.--

11 (2) The department is exempt from the requirements of
12 s. 109.151 ~~110.151~~.

13 Section 128. Subsection (1) of section 946.525,
14 Florida Statutes, is amended to read:

15 946.525 Participation by the corporation in the state
16 group health insurance and prescription drug programs.--

17 (1) The board of directors of the corporation
18 established under this part may apply for participation in the
19 state group health insurance program authorized in s. 109.123
20 ~~110.123~~ and the prescription drug coverage program authorized
21 by s. 109.12315 ~~110.12315~~ by submitting an application along
22 with a \$500 nonrefundable fee to the Department of Management
23 Services.

24 Section 129. Subsection (6) of section 957.03, Florida
25 Statutes, is amended to read:

26 957.03 Correctional Privatization Commission.--

27 (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The
28 commission shall be a separate budget entity, and the
29 executive director shall be its chief administrative officer.
30 The Department of Management Services shall provide
31 administrative support and service to the commission to the

1 extent requested by the executive director. The commission and
2 its staff are not subject to control, supervision, or
3 direction by the Department of Management Services in any
4 manner, including, but not limited to, personnel, purchasing,
5 and budgetary matters, except to the extent as provided in
6 chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the
7 executive branch. The executive director may designate a
8 maximum of two policymaking or managerial positions as being
9 exempt from the Career Service System. ~~These two positions may~~
10 ~~be provided for as members of the Senior Management Service.~~

11 Section 130. Subsection (4) of section 627.6617,
12 Florida Statutes, is amended to read:

13 627.6617 Coverage for home health care services.--

14 (4) The provisions of this section shall not apply to
15 a multiple-employer welfare arrangement as defined in s.
16 624.437(1) and in the State Health Plan as provided in s.
17 109.123 ~~110.123~~.

18 Section 131. Paragraph (e) of subsection (4) of
19 section 985.05, Florida Statutes, is amended to read:

20 985.05 Court records.--

21 (4) A court record of proceedings under this part is
22 not admissible in evidence in any other civil or criminal
23 proceeding, except that:

24 (e) Records of proceedings under this part may be used
25 to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,
26 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175,
27 409.176, and 985.407.

28 Section 132. Paragraph (b) of subsection (1) of
29 section 985.4045, Florida Statutes, is amended to read:

30 985.4045 Sexual misconduct prohibited; reporting
31 required; penalties.--

1 (1)

2 (b) Notwithstanding prosecution, any violation of this
3 subsection, as determined by the Public Employees Relations
4 Commission, constitutes sufficient cause under s. 109.227
5 ~~110.227~~ for dismissal from employment with the department, and
6 such person may not again be employed in any capacity in
7 connection with the juvenile justice system.

8 Section 133. Paragraph (i) is added to subsection (2)
9 of section 20.22, Florida Statutes, to read:

10 20.22 Department of Management Services.--There is
11 created a Department of Management Services.

12 (2) The following divisions and programs within the
13 Department of Management Services are established:

14 (i) Division of Human Resource Management.

15 Section 134. The Department of Management Services
16 shall coordinate the development and implementation of a
17 transition plan, including any necessary statutory amendments
18 or proposed rules, that supports the implementation of this
19 act. The Department of Labor and Employment Security, the
20 Public Employees Relations Commission, and all other state
21 agencies identified by the Department of Management Services
22 shall cooperate fully in developing and implementing the plan
23 and shall dedicate the financial and staff resources that are
24 necessary for such implementation.

25 Section 135. (1) Until June 30, 2004, the Public
26 Employees Relations Commission shall continue to exercise its
27 powers, duties, and functions pursuant to the authority
28 granted it under the Florida Statutes 2000.

29 (2) On and after July 1, 2004, the Public Employees
30 Relations Commission shall continue to exercise its powers,
31 duties, and functions pursuant to this act's amendment which

1 takes effect July 1, 2004, and for those cases properly and
2 timely filed with the commission after July 1, 2004, regarding
3 an alleged adverse action, the commission shall continue to
4 exercise its authority under the Florida Statutes 2000.

5 (3) After June 30, 2004, the Public Employees
6 Relations Commission shall be responsible for maintaining
7 labor relations issues and all career service appeal processes
8 shall be the responsibility of the Division of Human Resource
9 Management of the Department of Management Services.

10 Section 136. Effective July 1, 2003, there is
11 appropriated for the 2003-2004 fiscal year \$400,000 from the
12 General Revenue Fund to the Division of Human Resource
13 Management of the Department of Management Services to
14 implement the provisions of this act.

15 Section 137. After July 1, 2003, the Executive Office
16 of the Governor shall process a budget amendment, or budget
17 amendments, subject to legislative notice and review under
18 section 216.177, Florida Statutes, to transfer records,
19 property, and unexpended balances of appropriations,
20 allocations, or other funds of the Public Employees Relations
21 Commission within the Department of Labor and Employment
22 Security to the Division of Human Resource Management of the
23 Department of Management Services. Such budget authority,
24 resources, and personnel at the Public Employees Relations
25 Commission to finalize existing cases under review and phase
26 out the operation of the commission. All existing cases and
27 phase-out activities at the Public Employees Relations
28 Commission shall be concluded by June 30, 2003.

29 Section 138. On or before October 1, 2003, the
30 Department of Management Services shall adopt, amend, or
31 repeal rules as necessary to effectuate the provisions of

1 chapter 109, Florida Statutes, as created by this act and in
2 accordance with authority granted to the department in chapter
3 109, Florida Statutes.

4 Section 139. Except as otherwise provided herein, this
5 act shall take effect upon becoming a law.

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