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A bill to be entitled

An act relating to public employees; providing a popular name; renumbering parts I, II, and IV of ch. 110, F.S., as parts I, II, and III of ch. 109, F.S.; repealing s. 110.1082, F.S., relating to use of telephone voice mail and menu options systems; amending and renumbering s. 110.1091, F.S.; requiring state agencies to provide a program to assist employees with specified problems; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; including courses at community colleges in such opportunities; revising responsibilities of employees granted educational leave; reenacting and renumbering s. 110.112, F.S.; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.123, F.S., relating to the state group insurance program; removing a prohibition against the contribution of state funds toward supplemental benefit plan premiums; directing the Department of Management Services to establish criteria to allow lower cost to employees if agencies require physical/health standards; amending and renumbering s. 110.12312, F.S.; providing for inclusion of supplemental benefit insurance in options offered to retired state employees; amending and renumbering s. 110.124, F.S.; increasing the age limit for provisions that provide relief for employees terminated solely because of age;



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30 providing that an employee who is terminated solely  
31 because of attaining such age may apply to the circuit  
32 court for relief if binding arbitration is not conducted;  
33 amending and renumbering s. 110.1245, F.S.; providing for  
34 a gain sharing program, with awards set by the Legislative  
35 Budgeting Commission; deleting certain limitations;  
36 amending and renumbering s. 110.131, F.S.; revising the  
37 time limitation on employment of other-personal-services  
38 temporary employees; requiring approval of the Governor's  
39 Office of Policy and Budget for extension of such  
40 limitation; revising exemptions from such limitation;  
41 amending and renumbering s. 110.1522, F.S.; including  
42 leave for employees with an elderly parent in family  
43 support personnel policies; creating s. 109.202, F.S.;  
44 deleting a requirement that a layoff be conducted within  
45 an identified competitive area; providing for appeals with  
46 respect to reductions in pay, transfers, layoffs,  
47 demotions, suspensions, or dismissals; providing the  
48 agency's burden of proof; providing requirements for the  
49 grievance process; providing for rules; amending and  
50 renumbering s. 110.233, F.S.; revising provisions relating  
51 to employees holding local public office; creating s.  
52 109.240, F.S.; providing that any permanent career service  
53 employee may request binding arbitration administered by  
54 the Division of Human Resource Management upon notice of  
55 an adverse agency action; providing definitions; providing  
56 requirements for such requests; providing for notice to  
57 the agency; specifying the employer's burden of proof;  
58 providing for arbitrators and their qualifications and



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59 authority; providing duties of the division; providing for  
60 records; providing procedural requirements for arbitration  
61 proceedings; providing for rules; providing for  
62 application to the circuit court for an order enforcing,  
63 vacating, or modifying the arbitration decision; providing  
64 for immunity; creating s. 109.241, F.S.; providing for the  
65 appointment of peer review committees to hear employee  
66 appeals of adverse personnel actions; providing for  
67 selection of members; providing procedures for such  
68 appeals; providing a declaration of policy; amending and  
69 renumbering s. 110.203, F.S.; conforming a definition;  
70 revising the definitions of "promotion," "demotion,"  
71 dismissal," "suspension"; creating s. 109.2035, F.S.;;  
72 directing the Department of Management Services, in  
73 consultation with specified entities, to develop a model  
74 civil service classification and compensation program and  
75 providing requirements with respect thereto; repealing s.  
76 110.205(2)(n), F.S., which allows department heads to  
77 designate certain positions as Selected Exempt Service or  
78 Senior Management Service; correcting cross references, to  
79 conform; amending and renumbering s. 110.211, F.S.;;  
80 directing the department to develop uniform recruitment  
81 and selection rules to be used by employing agencies;  
82 revising requirements relating to recruitment literature;  
83 amending and renumbering s. 110.224, F.S.;; revising  
84 requirements relating to a review and performance planning  
85 system and designating such system a review and  
86 performance evaluation system; revising requirements  
87 relating to certain information furnished to employees and



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88 employee evaluation; providing for biannual management  
89 performance reports; amending and renumbering s. 110.227,  
90 F.S.; providing that a career service employee may be  
91 suspended or dismissed for reasonable cause and specifying  
92 actions included thereunder; providing that rules  
93 regarding layoff shall include "bumping"; providing such  
94 employee's rights; providing authority of such committees;  
95 providing the department's burden of proof; authorizing  
96 remedial action if the action is not sustained; repealing  
97 ss. 110.401, 110.402, 110.403, 110.405, 110.406, 110.601,  
98 110.602, 110.603, 110.604, 110.605, and 110.606, F.S.,  
99 which create the Senior Management Service and Selected  
100 Exempt Service systems; amending and renumbering ss.  
101 110.116, 110.117, 110.1227, 110.1228, 110.1232, 110.2037,  
102 110.152, 110.15201, 110.1521, 110.1523, 110.161, 110.171,  
103 110.191, 110.2037, 110.205, 110.219, and 110.502, F.S.;  
104 clarifying and conforming language and correcting cross  
105 references; amending ss. 20.18, 20.21, 20.23, 20.255,  
106 20.315, 24.105, 24.122, 63.097, 68.087, 104.31, 106.082,  
107 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363,  
108 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011,  
109 216.181, 216.251, 260.0125, 287.175, 295.07, 296.04,  
110 296.34, 311.07, 338.2216, 339.175, 343.74, 373.6065,  
111 381.00315, 381.85, 393.0657, 400.19, 400.953, 402.3057,  
112 402.55, 402.731, 409.1757, 409.9205, 440.102, 443.171,  
113 447.207, 456.048, 471.038, 509.036, 570.073, 570.074,  
114 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617,  
115 655.019, 943.0585, 943.059, 943.22, 943.61, 944.35,  
116 945.043, 946.525, 957.03, 985.05, 985.4045, 1001.28,



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117 1001.74, 1002.36, 1012.62, and 1012.96, F.S.; conforming  
 118 language and correcting cross references; amending s.  
 119 20.22, F.S.; creating the Division of Human Resource  
 120 Management in the Department of Management Services;  
 121 providing powers and duties of the Public Employees  
 122 Relations Commission; directing the Department of  
 123 Management Services to coordinate a transition plan;  
 124 providing an appropriation; providing for a budget  
 125 amendment; authorizing the Department of Management  
 126 Services to adopt rules; providing effective dates.

127

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

129

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

132 Section 2. Sections 110.105 and 110.107, Florida Statutes,  
 133 are renumbered as sections 109.105 and 109.107, Florida  
 134 Statutes, respectively.

135 Section 3. Section 110.1082, Florida Statutes, is  
 136 repealed. Section 4. Section 110.1091, Florida Statutes,  
 137 is renumbered as section 109.1091, Florida Statutes, and amended  
 138 to read:

139 109.1091 ~~110.1091~~ Program for assisting state employees;  
 140 confidentiality.--An employing state agency will ~~may~~ provide a  
 141 program to assist any of its state employees who have a  
 142 behavioral or medical disorder, substance abuse problem, or  
 143 emotional difficulty that affects their job performance, through  
 144 referral for counseling, therapy, or other professional  
 145 treatment. Each employing state agency may designate community



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146 diagnostic and referral resources as necessary to implement the  
 147 provisions of this section. Any communication between a state  
 148 employee and personnel or service providers of a state employee  
 149 assistance program relative to the employee's participation in  
 150 the program shall be a confidential communication. Any routine  
 151 monitoring of telephone calls by the state agency does not  
 152 violate this provision. All records relative to that  
 153 participation shall be confidential and exempt from the  
 154 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 155 Constitution. This section is subject to the Open Government  
 156 Sunset Review Act of 1995 in accordance with s. 119.15, and  
 157 shall stand repealed on October 2, 2003, unless reviewed and  
 158 saved from repeal through reenactment by the Legislature.

159 Section 5. Section 110.1099, Florida Statutes, is  
 160 renumbered as section 109.1099, Florida Statutes, and amended to  
 161 read:

162 109.1099 ~~110.1099~~ Education and training opportunities for  
 163 state employees.--

164 (1) (a) Education and training are an integral component in  
 165 improving the delivery of services to the public. Recognizing  
 166 that the application of productivity-enhancing technology and  
 167 practice demands continuous educational and training  
 168 opportunities, a state employee may be authorized to receive a  
 169 voucher or grant, for matriculation fees, to attend work-related  
 170 courses at public community colleges, public technical centers,  
 171 or public universities. The department may implement the  
 172 provisions of this section from funds appropriated to the  
 173 department for this purpose. In the event insufficient funds are  
 174 appropriated to the department, each state agency may supplement



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175 these funds to support the training and education needs of its  
176 employees from funds appropriated to the agency.

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

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

190 (3) An employee who exhibits superior aptitude and  
191 performance may be authorized by that employee's agency head to  
192 take a paid educational leave of absence for up to 1 academic  
193 year at a time, for specific approved work-related education and  
194 training. That employee must enter into a contract to return to  
195 state employment for a period of time equal to twice the length  
196 of the leave of absence or refund salary and benefits paid  
197 during his or her educational leave of absence.

198 (4) As a precondition to approving an employee's training  
199 request, an agency or the judicial branch may require an  
200 employee to enter into an agreement that requires the employee  
201 to reimburse the agency or judicial branch for the registration  
202 fee or similar expense for any training or training series when  
203 the cost of the fee or similar expense exceeds \$1,000 if the



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204 employee voluntarily terminates employment or is discharged for  
 205 cause from the agency or judicial branch within a specified  
 206 period of time not to exceed 4 years after the conclusion of the  
 207 training. This subsection does not apply to any training program  
 208 that an agency or the judicial branch requires an employee to  
 209 attend. An agency or the judicial branch may pay the outstanding  
 210 balance then due and owing on behalf of a state employee under  
 211 this subsection in connection with recruitment and hiring of  
 212 such state employee.

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

217 Section 6. Section 110.112, Florida Statutes, is  
 218 renumbered as section 109.112, Florida Statutes, to read:

219 109.112 ~~110.112~~ Affirmative action; equal employment  
 220 opportunity.--

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

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

229 (b) Each executive agency shall establish annual goals for  
 230 ensuring full utilization of groups underrepresented in its  
 231 workforce as compared to the relevant labor market, as defined





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232 by the agency. Each executive agency shall design its  
233 affirmative action plan to meet its established goals.

234 (c) An affirmative action-equal employment opportunity  
235 officer shall be appointed by the head of each executive agency.  
236 The affirmative action-equal employment opportunity officer's  
237 responsibilities must include determining annual goals,  
238 monitoring agency compliance, and providing consultation to  
239 managers regarding progress, deficiencies, and appropriate  
240 corrective action.

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

245 (e) The department shall provide to all supervisory  
246 personnel of the executive agencies training in the principles  
247 of equal employment opportunity and affirmative action, the  
248 development and implementation of affirmative action plans, and  
249 the establishment of annual affirmative action goals. The  
250 department may contract for training services, and each  
251 participating agency shall reimburse the department for costs  
252 incurred through such contract. After the department approves  
253 the contents of the training program for the agencies, the  
254 department may delegate this training to the executive agencies.

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

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

257 (b) Establish annual goals for ensuring full utilization  
258 of groups underrepresented in its workforce as compared to the  
259 relevant labor market in this state. The state attorneys' and



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260 public defenders' affirmative action plans must be designed to  
 261 meet the established goals.

262 (c) Appoint an affirmative action-equal employment  
 263 opportunity officer.

264 (d) Report annually to the Justice Administrative  
 265 Commission on the implementation, continuance, updating, and  
 266 results of his or her affirmative action program for the  
 267 previous fiscal year.

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

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

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

278 Section 7. Sections 110.1127 and 110.1128, Florida  
 279 Statutes, are renumbered as sections 109.1127 and 109.1128,  
 280 Florida Statutes, respectively.

281 Section 8. Section 110.113, Florida Statutes, is  
 282 renumbered as section 109.113, Florida Statutes, and subsection  
 283 (2) of said section is amended to read:

284 109.113 ~~110.113~~ Pay periods for state officers and  
 285 employees; salary payments by direct deposit.--

286 (2) As a condition of employment, a person appointed to a  
 287 position in state government is required to participate in the  
 288 direct deposit program pursuant to s. 17.076. An employee may



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289 request an exemption from the provisions of this subsection when  
290 such employee can demonstrate a hardship ~~or when such employee~~  
291 ~~is in an other personal services position.~~

292 Section 9. Sections 110.114, 110.115, and 110.1155,  
293 Florida Statutes, are renumbered as sections 109.114, 109.115,  
294 and 109.1155, Florida Statutes, respectively.

295 Section 10. Section 110.116, Florida Statutes, is  
296 renumbered as section 109.116, Florida Statutes, and subsection  
297 (2) of said section is amended to read:

298 109.116 ~~110.116~~ Personnel information system; payroll  
299 procedures.--

300 (2) For the 2002-2003 fiscal year only, and  
301 notwithstanding the requirements of s. 215.94(5) that the  
302 department design, implement, and operate the system and of s.  
303 109.201(1)(e) ~~110.201(1)(e)~~ that the individual employing  
304 agencies maintain records and reports, the department is  
305 authorized to contract with a vendor to provide the personnel  
306 information system for state agencies. The vendor may assist the  
307 department in compiling and reporting personnel data and may  
308 assist the employing agencies in maintaining personnel records.  
309 This subsection expires July 1, 2003.

310 Section 11. Section 110.1165, Florida Statutes, is  
311 renumbered as section 109.1165, Florida Statutes.

312 Section 12. Section 110.117, Florida Statutes, is  
313 renumbered as section 109.117, Florida Statutes, and subsection  
314 (3) of said section is amended to read:

315 109.117 ~~110.117~~ Paid holidays.--

316 (3) Each full-time employee is entitled to one personal  
317 holiday each year. Each part-time employee is entitled to a



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318 personal holiday each year which shall be calculated  
 319 proportionately to the personal holiday allowed to a full-time  
 320 employee. Such personal holiday shall be credited to eligible  
 321 employees on July 1 of each year to be taken prior to June 30 of  
 322 the following year. Members of the teaching and research faculty  
 323 of the State University System and administrative and  
 324 professional positions exempted under s. 109.205(2)(d)  
 325 ~~110.205(2)(d)~~ are not eligible for this benefit.

326 Section 13. Sections 110.118, 110.119, 110.120, 110.121,  
 327 110.122, 110.1221, and 110.1225, Florida Statutes, are  
 328 renumbered as sections 109.118, 109.119, 109.120, 109.121,  
 329 109.122, 109.1221, and 109.1225, Florida Statutes, respectively.

330 Section 14. Section 110.1227, Florida Statutes, is  
 331 renumbered as section 109.1227, Florida Statutes, and paragraph  
 332 (c) of subsection (1) of said section is amended to read:

333 109.1227 ~~110.1227~~ Florida Employee Long-Term-Care Plan  
 334 Act.--

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

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

341 Section 15. Section 110.1228, Florida Statutes, is  
 342 renumbered as section 109.1228, Florida Statutes, and subsection  
 343 (2) of said section is amended to read:

344 109.1228 ~~110.1228~~ Participation by small counties, small  
 345 municipalities, and district school boards ~~located in small~~  
 346 ~~counties~~.--



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347 (2) The governing body of a small county or small  
 348 municipality or a district school board may apply for  
 349 participation in the state group health insurance program  
 350 authorized in s. 109.123 ~~110.123~~ and the prescription drug  
 351 coverage program authorized by s. 109.12315 ~~110.12315~~ by  
 352 submitting an application along with a \$500 nonrefundable fee to  
 353 the department.

354 Section 16. Section 110.123, Florida Statutes, is  
 355 renumbered as section 109.123, Florida Statutes, and paragraph  
 356 (h) of subsection (3) of said section is amended to read:

357 109.123 ~~110.123~~ State group insurance program.--

358 (3) STATE GROUP INSURANCE PROGRAM.--

359 (h)1. A person eligible to participate in the state group  
 360 insurance program may be authorized by rules adopted by the  
 361 department, in lieu of participating in the state group health  
 362 insurance plan, to exercise an option to elect membership in a  
 363 health maintenance organization plan which is under contract  
 364 with the state in accordance with criteria established by this  
 365 section and by said rules. The offer of optional membership in a  
 366 health maintenance organization plan permitted by this paragraph  
 367 may be limited or conditioned by rule as may be necessary to  
 368 meet the requirements of state and federal laws.

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

374 a. The department shall establish a schedule of minimum  
 375 benefits for health maintenance organization coverage, and that



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376 schedule shall include: physician services; inpatient and  
377 outpatient hospital services; emergency medical services,  
378 including out-of-area emergency coverage; diagnostic laboratory  
379 and diagnostic and therapeutic radiologic services; mental  
380 health, alcohol, and chemical dependency treatment services  
381 meeting the minimum requirements of state and federal law;  
382 skilled nursing facilities and services; prescription drugs; and  
383 other benefits as may be required by the department. Additional  
384 services may be provided subject to the contract between the  
385 department and the HMO.

386 b. The department may establish uniform deductibles,  
387 copayments, or coinsurance schedules for all participating HMO  
388 plans.

389 c. The department may require detailed information from  
390 each health maintenance organization participating in the  
391 procurement process, including information pertaining to  
392 organizational status, experience in providing prepaid health  
393 benefits, accessibility of services, financial stability of the  
394 plan, quality of management services, accreditation status,  
395 quality of medical services, network access and adequacy,  
396 performance measurement, ability to meet the department's  
397 reporting requirements, and the actuarial basis of the proposed  
398 rates and other data determined by the director to be necessary  
399 for the evaluation and selection of health maintenance  
400 organization plans and negotiation of appropriate rates for  
401 these plans. Upon receipt of proposals by health maintenance  
402 organization plans and the evaluation of those proposals, the  
403 department may enter into negotiations with all of the plans or  
404 a subset of the plans, as the department determines appropriate.



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405 Nothing shall preclude the department from negotiating regional  
 406 or statewide contracts with health maintenance organization  
 407 plans when this is cost-effective and when the department  
 408 determines that the plan offers high value to enrollees.

409       d. The department may limit the number of HMOs that it  
 410 contracts with in each service area based on the nature of the  
 411 bids the department receives, the number of state employees in  
 412 the service area, or any unique geographical characteristics of  
 413 the service area. The department shall establish by rule service  
 414 areas throughout the state.

415       e. All persons participating in the state group insurance  
 416 program who are required to contribute towards a total state  
 417 group health premium shall be subject to the same dollar  
 418 contribution regardless of whether the enrollee enrolls in the  
 419 state group health insurance plan or in an HMO plan.

420       3. The department is authorized to negotiate and to  
 421 contract with specialty psychiatric hospitals for mental health  
 422 benefits, on a regional basis, for alcohol, drug abuse, and  
 423 mental and nervous disorders. The department may establish,  
 424 subject to the approval of the Legislature pursuant to  
 425 subsection (5), any such regional plan upon completion of an  
 426 actuarial study to determine any impact on plan benefits and  
 427 premiums.

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

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



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433           b. Does not currently meet the 25-percent non-  
434 Medicare/non-Medicaid enrollment composition requirement  
435 established by the Department of Health excluding participants  
436 enrolled in the state group insurance program;

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

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

443           e. Meets the minimum surplus requirements of s. 641.225.

444  
445 The department is authorized to contract with HMOs that meet the  
446 requirements of sub-subparagraphs a.-d. prior to the open  
447 enrollment period for state employees. The department is not  
448 required to renew the contract with the HMOs as set forth in  
449 this paragraph more than twice. Thereafter, the HMOs shall be  
450 eligible to participate in the state group insurance program  
451 only through the request for proposal process described in  
452 subparagraph 2.

453           5. All enrollees in the state group health insurance plan  
454 or any health maintenance organization plan shall have the  
455 option of changing to any other health plan which is offered by  
456 the state within any open enrollment period designated by the  
457 department. Open enrollment shall be held at least once each  
458 calendar year.

459           6. When a contract between a treating provider and the  
460 state-contracted health maintenance organization is terminated  
461 for any reason other than for cause, each party shall allow any





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462 enrollee for whom treatment was active to continue coverage and  
463 care when medically necessary, through completion of treatment  
464 of a condition for which the enrollee was receiving care at the  
465 time of the termination, until the enrollee selects another  
466 treating provider, or until the next open enrollment period  
467 offered, whichever is longer, but no longer than 6 months after  
468 termination of the contract. Each party to the terminated  
469 contract shall allow an enrollee who has initiated a course of  
470 prenatal care, regardless of the trimester in which care was  
471 initiated, to continue care and coverage until completion of  
472 postpartum care. This does not prevent a provider from refusing  
473 to continue to provide care to an enrollee who is abusive,  
474 noncompliant, or in arrears in payments for services provided.  
475 For care continued under this subparagraph, the program and the  
476 provider shall continue to be bound by the terms of the  
477 terminated contract. Changes made within 30 days before  
478 termination of a contract are effective only if agreed to by  
479 both parties.

480 7. Any HMO participating in the state group insurance  
481 program shall submit health care utilization and cost data to  
482 the department, in such form and in such manner as the  
483 department shall require, as a condition of participating in the  
484 program. The department shall enter into negotiations with its  
485 contracting HMOs to determine the nature and scope of the data  
486 submission and the final requirements, format, penalties  
487 associated with noncompliance, and timetables for submission.  
488 These determinations shall be adopted by rule.

489 8. The department may establish and direct, with respect  
490 to collective bargaining issues, a comprehensive package of



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491 insurance benefits that may include supplemental health and life  
 492 coverage, dental care, long-term care, vision care, and other  
 493 benefits it determines necessary to enable state employees to  
 494 select from among benefit options that best suit their  
 495 individual and family needs.

496 a. Based upon a desired benefit package, the department  
 497 shall issue a request for proposal for health insurance  
 498 providers interested in participating in the state group  
 499 insurance program, and the department shall issue a request for  
 500 proposal for insurance providers interested in participating in  
 501 the non-health-related components of the state group insurance  
 502 program. Upon receipt of all proposals, the department may enter  
 503 into contract negotiations with insurance providers submitting  
 504 bids or negotiate a specially designed benefit package.

505 Insurance providers offering or providing supplemental coverage  
 506 as of May 30, 1991, which qualify for pretax benefit treatment  
 507 pursuant to s. 125 of the Internal Revenue Code of 1986, with  
 508 5,500 or more state employees currently enrolled may be included  
 509 by the department in the supplemental insurance benefit plan  
 510 established by the department without participating in a request  
 511 for proposal, submitting bids, negotiating contracts, or  
 512 negotiating a specially designed benefit package. These  
 513 contracts shall provide state employees with the most cost-  
 514 effective and comprehensive coverage available; ~~however, no~~  
 515 ~~state or agency funds shall be contributed toward the cost of~~  
 516 ~~any part of the premium of such supplemental benefit plans.~~ With  
 517 respect to dental coverage, the division shall include in any  
 518 solicitation or contract for any state group dental program made  
 519 after July 1, 2001, a comprehensive indemnity dental plan option



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520 which offers enrollees a completely unrestricted choice of  
 521 dentists. If a dental plan is endorsed, or in some manner  
 522 recognized as the preferred product, such plan shall include a  
 523 comprehensive indemnity dental plan option which provides  
 524 enrollees with a completely unrestricted choice of dentists.

525 b. Pursuant to the applicable provisions of s. 109.161  
 526 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the  
 527 department shall enroll in the pretax benefit program those  
 528 state employees who voluntarily elect coverage in any of the  
 529 supplemental insurance benefit plans as provided by sub-  
 530 subparagraph a.

531 c. Nothing herein contained shall be construed to prohibit  
 532 insurance providers from continuing to provide or offer  
 533 supplemental benefit coverage to state employees as provided  
 534 under existing agency plans.

535 d. The Department of Management Services shall establish  
 536 criteria to allow lower cost to employees if agencies require  
 537 physical/health standards.

538 Section 17. Section 110.12312, Florida Statutes, is  
 539 renumbered as section 109.12312, Florida Statutes, and is  
 540 amended to read:

541 109.12312 ~~110.12312~~ Open enrollment period for  
 542 retirees.--On or after July 1, 1997, the Department of  
 543 Management Services shall provide for an open enrollment period  
 544 for retired state employees who want to obtain health insurance  
 545 coverage under ss. 109.123 ~~110.123~~ and 109.12315 ~~110.12315~~. The  
 546 options offered during the open enrollment period must provide  
 547 the same health and supplemental benefit insurance coverage as  
 548 the coverage provided to active employees under the same premium



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549 payment conditions in effect for covered retirees, including  
 550 eligibility for health insurance subsidy payments under s.  
 551 112.363. A person who separates from employment subsequent to  
 552 May 1, 1988, but whose date of retirement occurs on or after  
 553 August 1, 1995, is eligible as of the first open enrollment  
 554 period occurring after July 1, 1997, with an effective date of  
 555 January 1, 1998, as long as the retiree's enrollment remains in  
 556 effect.

557 Section 18. Section 110.12315, Florida Statutes, is  
 558 renumbered as section 109.12315, Florida Statutes.

559 Section 19. Section 110.1232, Florida Statutes, is  
 560 renumbered as section 109.1232, Florida Statutes, and amended to  
 561 read:

562 109.1232 ~~110.1232~~ Health insurance coverage for persons  
 563 retired under state-administered retirement systems before  
 564 January 1, 1976, and for spouses.--Notwithstanding any  
 565 provisions of law to the contrary, the Department of Management  
 566 Services shall provide health insurance coverage under the state  
 567 group insurance program for persons who retired before January  
 568 1, 1976, under any of the state-administered retirement systems  
 569 and who are not covered by social security and for the spouses  
 570 and surviving spouses of such retirees who are also not covered  
 571 by social security. Such health insurance coverage shall provide  
 572 the same benefits as provided to other retirees who are entitled  
 573 to participate under s. 109.123 ~~110.123~~. The claims experience  
 574 of this group shall be commingled with the claims experience of  
 575 other members covered under s. 109.123 ~~110.123~~.



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576 Section 20. Sections 110.1234, 110.1238, and 110.1239,  
 577 Florida Statutes, are renumbered as sections 109.1234, 109.1238,  
 578 and 109.1239, Florida Statutes, respectively.

579 Section 21. Section 110.1245, Florida Statutes, is  
 580 renumbered as section 109.1245, Florida Statutes, and amended to  
 581 read:

582 (Substantial rewording of section. See  
 583 s. 110.1245, F.S., for present text.)  
 584 109.1245 Gain sharing program.--

585 (1) The Department of Management Services shall set  
 586 policy, develop procedures, and promote a program of gain  
 587 sharing for employees who propose procedures or ideas which are  
 588 adopted and which will result in increasing productivity, in  
 589 eliminating or reducing state expenditures or improving  
 590 operations, or in generating additional revenues, provided such  
 591 proposals are placed in effect and can be implemented under  
 592 current statutory authority. Every state agency, unless  
 593 otherwise provided by law, shall participate in the program. The  
 594 Chief Justice shall have the authority to establish a gain  
 595 sharing program for employees of the judicial branch within the  
 596 parameters established in this section. The program shall apply  
 597 to all employees within the Career Service System, the Selected  
 598 Exempt Service System, and comparable employees within the  
 599 judicial branch. The Legislative Budgeting Commission shall set  
 600 awards for the gain sharing program. The judicial branch or a  
 601 state agency may award certificates, pins, plaques, letters of  
 602 commendation, and other tokens of recognition under the gain  
 603 sharing program.



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604       (2) The department and the judicial branch shall submit  
605 annually to the President of the Senate and the Speaker of the  
606 House of Representatives information that outlines each agency's  
607 level of participation in the program. The information must  
608 include, but is not limited to:

609           (a) The number of proposals made.

610           (b) The number of awards made to employees for adopted  
611 proposals.

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

614           (d) Total expenditures incurred by the Legislative  
615 Budgeting Commission for providing awards to employees for  
616 adopted proposals.

617           (e) The number of employees recognized for superior  
618 accomplishments.

619           (f) The number of employees recognized for satisfactory  
620 service to the state.

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

627       (4) Each department head is authorized to incur  
628 expenditures to award suitable framed certificates, pins, or  
629 other tokens of recognition to state employees who have achieved  
630 increments of 5 years of satisfactory service in the agency or  
631 to the state, in appreciation and recognition of such service.



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632 Such awards may not cost in excess of \$50 each plus applicable  
 633 taxes.

634 (5) Each department head is authorized to incur  
 635 expenditures not to exceed \$100 each plus applicable taxes for  
 636 suitable framed certificates, plaques, or other tokens of  
 637 recognition to any appointed member of a state board or  
 638 commission whose service to the state has been satisfactory, in  
 639 appreciation and recognition of such service upon the expiration  
 640 of such board or commission member's final term in such  
 641 position.

642 Section 22. Sections 110.125, 110.126, 110.127, and  
 643 110.129, Florida Statutes, are renumbered as sections 109.125,  
 644 109.126, 109.127, and 109.129, Florida Statutes, respectively.

645 Section 23. Section 110.131, Florida Statutes, is  
 646 renumbered as section 109.131, Florida Statutes, and, effective  
 647 July 1, 2003, subsections (2) and (3) and paragraph (c) of  
 648 subsection (6) of said section are amended to read:

649 109.131 ~~110.131~~ Other-personal-services temporary  
 650 employment.--

651 (2) An agency may employ any qualified individual in  
 652 other-personal-services temporary employment for 100 hours in  
 653 any calendar month ~~1,040 hours within any 12-month~~ period. An  
 654 extension beyond a total of 100 hours in any calendar month  
 655 period ~~1,040 hours~~ within an agency for any individual requires  
 656 the a recommendation by the agency head and approval of the  
 657 Governor's Office of Policy and Budgeting for good cause by the  
 658 Executive Office of the Governor. Approval of extensions shall  
 659 be made in accordance with criteria established by the  
 660 department. Each agency shall maintain employee information as



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661 ~~specified by the department regarding each extension of other-~~  
662 ~~personal-services temporary employment.~~ The time limitation  
663 established by this subsection does not apply to board members;  
664 ~~consultants; seasonal employees;~~ institutional clients employed  
665 as part of their rehabilitation; bona fide, degree-seeking  
666 students in accredited secondary or postsecondary educational  
667 programs; employees hired to deal with an emergency situation  
668 that affects the public health, safety, or welfare; or employees  
669 hired for a project that is identified by a specific  
670 appropriation or time-limited grant.

671 (3) The department shall adopt rules providing that other-  
672 personal-services temporary employment in an employer-employee  
673 relationship shall be used for short-term tasks. Such rules  
674 shall specify the employment categories, terms, conditions, rate  
675 of pay, and frequency of other-personal-services temporary  
676 employment and the duration for which such employment may last, +  
677 ~~specify criteria for approving extensions beyond the time~~  
678 ~~limitation provided in subsection (2);~~ and prescribe  
679 recordkeeping and reporting requirements for other-personal-  
680 services employment.

681 (6)

682 (c) Notwithstanding the provisions of this section, the  
683 agency head or his or her designee may extend the other-  
684 personal-services employment of a health care practitioner  
685 licensed pursuant to chapter 458, chapter 459, chapter 460,  
686 chapter 461, chapter 463, part I of chapter 464, chapter 466,  
687 chapter 468, chapter 483, chapter 486, or chapter 490 beyond  
688 2,080 hours per year and may employ such practitioner on an  
689 hourly or other basis.





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690 Section 24. Section 110.151, Florida Statutes, is  
 691 renumbered as section 109.151, Florida Statutes.

692 Section 25. Section 110.152, Florida Statutes, is  
 693 renumbered as section 109.152, Florida Statutes, and subsection  
 694 (4) of said section is amended to read:

695 109.152 ~~110.152~~ Adoption benefits for state employees;  
 696 parental leave.--

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

702 Section 26. Section 110.15201, Florida Statutes, is  
 703 renumbered as section 109.15201, Florida Statutes, and amended  
 704 to read:

705 109.15201 ~~110.15201~~ Adoption benefits for state employees;  
 706 rulemaking authority.--The Department of Management Services may  
 707 adopt rules to administer the provisions of this act. Such rules  
 708 may provide for an application process such as, but not limited  
 709 to, an open enrollment period during which employees may apply  
 710 for monetary benefits as provided in s. 109.152 ~~110.152(1)~~.

711 Section 27. Section 110.1521, Florida Statutes, is  
 712 renumbered as section 109.1521, Florida Statutes, and amended to  
 713 read:

714 109.1521 ~~110.1521~~ Short title.--Sections 109.1521-109.1523  
 715 ~~110.1521-110.1523~~ may be cited as the "Family Support Personnel  
 716 Policies Act."



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717 Section 28. Section 110.1522, Florida Statutes, is  
718 renumbered as section 109.1522, Florida Statutes, and amended to  
719 read:

720 109.1522 ~~110.1522~~ Model rule establishing family support  
721 personnel policies.--The Department of Management Services shall  
722 develop a model rule establishing family support personnel  
723 policies for all executive branch agencies, excluding the State  
724 University System. "Family support personnel policies," for  
725 purposes of ss. 109.1521-109.1523 ~~110.1521-110.1523~~, means  
726 personnel policies affecting employees' ability to both work and  
727 devote care and attention to their families and includes  
728 policies on flexible hour work schedules, compressed time, job  
729 sharing, part-time employment, maternity or paternity leave for  
730 employees with a newborn or newly adopted child, leave for  
731 employees with an elderly parent, and paid and unpaid family or  
732 administrative leave for family responsibilities.

733 Section 29. Section 110.1523, Florida Statutes, is  
734 renumbered as section 109.1523, Florida Statutes, and amended to  
735 read:

736 109.1523 ~~110.1523~~ Adoption of model rule.--The model rule  
737 shall be effective 20 days after having been filed with the  
738 Department of State and shall become part of the personnel rules  
739 of all applicable state agencies 150 days after the effective  
740 date of the rule to the extent that each agency does not,  
741 subsequent to such effective date, adopt a rule that sets forth  
742 the intent to specifically amend all or part of such model rule.  
743 Any employee or organization representing employees shall be  
744 considered a party for purposes of any rule required by ss.



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745 109.1521-109.1523 ~~110.1521-110.1523~~, notwithstanding any  
 746 provision of chapter 120 to the contrary.

747 Section 30. Section 110.124, Florida Statutes, is  
 748 renumbered as section 109.124, Florida Statutes, and subsections  
 749 (2) and (4) of said section are amended to read:

750 109.124 ~~110.124~~ Termination or transfer of employees aged  
 751 67 ~~65~~ or older.--

752 (2) Whenever any employee who has attained age 67 ~~65~~ is  
 753 terminated by an agency or department solely because the  
 754 employee attains age 67 ~~65~~, the employee may apply for relief  
 755 from the action to the circuit court, unless binding arbitration  
 756 is conducted pursuant to s. 109.240 Public Employees Relations  
 757 Commission pursuant to s. 447.208. The employee shall continue  
 758 in employment pending the outcome of the case application. If  
 759 the employee continues in employment following the decision of  
 760 the court commission, no further action shall be taken by the  
 761 agency or department to terminate the employee for a period of 1  
 762 year following the date of the court's decision ~~of the~~  
 763 ~~commission~~ unless approved by the court commission upon a  
 764 showing by the agency or department that the employee's  
 765 capability has changed to a sufficient extent that he or she is  
 766 no longer able to perform any job within such agency or  
 767 department.

768 (4) If mutually agreed to by the employee and the agency  
 769 or department, an employee who has attained age 67 ~~65~~ may be  
 770 reduced to a part-time position for the purpose of phasing the  
 771 employee out of employment into retirement. ~~Such an arrangement~~  
 772 ~~may also be required by the Public Employees Relations~~  
 773 ~~Commission as part of its decision in any appeal arising out of~~



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774 ~~this section.~~ A reduction to a part-time position may be  
 775 accompanied by an appropriate reduction in pay.

776 Section 31. Section 110.171, Florida Statutes, is  
 777 renumbered as section 109.171, Florida Statutes, and paragraph  
 778 (c) of subsection (2) of said section is amended to read:

779 109.171 ~~110.171~~ State employee telecommuting program.--

780 (2) The department shall:

781 (c) Identify state employees who are participating in a  
 782 telecommuting program and their job classifications through the  
 783 state personnel payroll information subsystem created under s.  
 784 109.116 ~~110.116~~.

785 Section 32. Section 110.181, Florida Statutes, is  
 786 renumbered as section 109.181, Florida Statutes.

787 Section 33. Section 110.191, Florida Statutes, is  
 788 renumbered as section 109.191, Florida Statutes, and amended to  
 789 read:

790 109.191 ~~110.191~~ State employee leasing.--

791 (1) In situations where the Legislature has expressly  
 792 authorized the state, an agency, or the judicial branch as  
 793 defined in s. 109.203 ~~110.203~~ to lease employees, the Executive  
 794 Office of the Governor for the executive branch or the Chief  
 795 Justice for the judicial branch may authorize any of the  
 796 following actions related to such state employee leasing  
 797 activities, provided that the direct cost of such actions is to  
 798 be paid or reimbursed within 30 days after payment by the entity  
 799 or person to whom the employees are leased:

800 (a) Create a separate budget entity from which leased  
 801 employees shall be paid and transfer the positions authorized to  
 802 be leased to that budget entity.



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

804 (c) Authorized lump-sum salary bonuses to leased  
 805 employees; however, any lump-sum salary bonus above the  
 806 automatic salary increases which may be contained in the General  
 807 Appropriations Act must be funded from private sources.

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

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

814 (2) Positions which are in the Senior Management Service  
 815 System or the Selected Exempt Service System on the day before  
 816 the state employee lease agreement takes effect shall remain in  
 817 the respective system if the duties performed by the position  
 818 during the assignment of the state employee lease agreement are  
 819 comparable as determined by the department. Those Senior  
 820 Management Service System or Selected Exempt Service System  
 821 positions which are not determined comparable by the department  
 822 and positions which are in other pay plans on the day before the  
 823 lease agreement takes effect shall have the same salaries and  
 824 benefits provided to employees of the Office of the Governor  
 825 pursuant to s. 109.205(2)(1)2 ~~110.205(2)(1)2~~.

826 Section 34. Section 110.201, Florida Statutes, is  
 827 renumbered as section 109.201, Florida Statutes.

828 Section 35. Section 109.202, Florida Statutes, is created  
 829 to read:

830 109.202 Career Service System; declaration of policy.--It  
 831 is the purpose of this part to create a Career Service System



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832 that ensures the delivery of high-quality performance in career  
 833 service classifications by facilitating the state's ability to  
 834 attract, select, and retain qualified personnel in these  
 835 positions based on initiative, while also providing sufficient  
 836 agency flexibility to ensure that the workforce is responsive to  
 837 public needs.

838 Section 36. Section 110.203, Florida Statutes, is  
 839 renumbered as section 109.203, Florida Statutes, and subsections  
 840 (18), (19), (22), and (23) of said section are amended to read:

841 109.203 ~~110.203~~ Definitions.--For the purpose of this part  
 842 and the personnel affairs of the state:

843 (18) "Promotion" means changing the classification of an  
 844 employee to a class having a higher maximum salary or benefits;  
 845 or ~~the~~ changing ~~of~~ the classification of an employee to a class  
 846 having the same or a lower maximum salary but a higher level of  
 847 responsibility as determined by the Department of Management  
 848 Services.

849 (19) "Demotion" means changing the classification of an  
 850 employee to a class having a lower maximum salary or benefits;  
 851 or ~~the~~ changing ~~of~~ the classification of an employee to a class  
 852 having the same or a higher maximum salary but a lower level of  
 853 responsibility as determined by the Department of Management  
 854 Services.

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

858 (23) "Suspension" means a disciplinary action taken by an  
 859 agency pursuant to s. 109.227 ~~110.227~~ against an employee to  
 860 temporarily relieve the employee of his or her duties and place



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861 him or her on leave without pay.

862 Section 37. Section 109.2035, Florida Statutes, is created  
863 to read:

864 109.2035 Civil service classification and compensation  
865 program.--

866 (1) The Department of Management Services, in consultation  
867 with the Executive Office of the Governor, the Legislature, and  
868 the affected certified bargaining units, shall develop a model  
869 civil service classification and compensation program. This  
870 model program shall be developed for use by all state agencies  
871 and shall address all career service classes.

872 (2) (a) The model program shall consist of a vertical  
873 incentive plan (VIP) using four vertical occupational groups  
874 consisting of the following categories:

- 875 1. Executive appointments.
- 876 2. Administration.
- 877 3. Management.
- 878 4. Professional.

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

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

888 (d) Other personal services employees shall serve at the  
889 pleasure of the agency and such employees are exempt from the



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890 provisions of chapter 120.

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

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

895 (a) The VIP system must significantly reduce the need to  
896 reclassify positions due to work assignment and organizational  
897 changes by decreasing the number of classification changes  
898 required.

899 (b) The VIP system and horizontal band plan must emphasize  
900 self-incentive and job performance evaluation by benchmarks  
901 rather than use of the classification system to award salary  
902 increases.

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

905 (d) The administration VIP classification shall not exceed  
906 7 percent of the total allocated employees to each agency.

907 (e) The management VIP classification shall not exceed a  
908 ratio of 1 to 10 of the total allocated employees to each  
909 agency.

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

913 (4) The Department of Management Services shall submit the  
914 proposed design of the model civil service classification and  
915 compensation program to the Executive Office of the Governor,  
916 the presiding officers of the Legislature, and the appropriate  
917 legislative fiscal and substantive standing committees on or  
918 before December 1, 2003.





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919 Section 38. Section 110.2037, Florida Statutes, is  
 920 renumbered as section 109.2037, Florida Statutes, and  
 921 subsections (4) and (6) of said section are amended to read:

922 109.2037 ~~110.2037~~ Alternative benefits; tax-sheltered  
 923 annual leave and sick leave payments and special compensation  
 924 payments.--

925 (4) Notwithstanding the terminal pay provisions of s.  
 926 109.122 ~~110.122~~, the department may contract for a tax-sheltered  
 927 plan for leave and special compensation pay for employees  
 928 terminating over age 55 with 10 years of service and for  
 929 employees participating in the Deferred Retirement Option  
 930 Program on or after July 1, 2001, and who are over age 55. The  
 931 frequency of payments into the plan shall be determined by the  
 932 department or as provided in the General Appropriations Act.  
 933 This plan or plans shall provide the greatest tax benefits to  
 934 the employees and maximize the savings to the state.

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

937 Section 39. Section 110.205, Florida Statutes, is  
 938 renumbered as section 109.205, Florida Statutes, and paragraphs  
 939 (i) and (v) of subsection (2) and subsection (3) of said section  
 940 are amended to read:

941 109.205 ~~110.205~~ Career service; exemptions.--

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

944 (i) All positions that are established for a limited  
 945 period of time for the purpose of conducting a special study,  
 946 project, or investigation and any person paid from an other-  
 947 personal-services appropriation. Unless otherwise fixed by law,



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948 the salaries for such positions and persons shall be set in  
 949 accordance with rules established by the employing agency for  
 950 other-personal-services payments pursuant to s. 109.131 ~~110.131~~.

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

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

958 Section 40. Section 110.161, Florida Statutes, is  
 959 renumbered as section 109.161, Florida Statutes, and paragraph  
 960 (a) of subsection (6) of said section is amended to read:

961 109.161 ~~110.161~~ State employees; pretax benefits  
 962 program.--

963 (6) The Department of Management Services is authorized to  
 964 administer the pretax benefits program established for all  
 965 employees so that employees may receive benefits that are not  
 966 includable in gross income under the Internal Revenue Code of  
 967 1986. The pretax benefits program:

968 (a) Shall allow employee contributions to premiums for the  
 969 state group insurance program administered under s. 109.123  
 970 ~~110.123~~ to be paid on a pretax basis unless an employee elects  
 971 not to participate.

972 Section 41. Sections 110.207, 110.209, and 110.21, Florida  
 973 Statutes, are renumbered as sections 109.207, 109.209, and  
 974 109.21, Florida Statutes, respectively.



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975 Section 42. Section 110.211, Florida Statutes, is  
 976 renumbered as section 109.211, Florida Statutes, and amended to  
 977 read:

978 109.211 ~~110.211~~ Recruitment.--

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

986 (2) Recruiting efforts to fill current or projected  
 987 vacancies shall be carried out in the sound discretion of the  
 988 agency head.

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

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

995 Section 43. Sections 110.2135, 110.215, and 110.217,  
 996 Florida Statutes, are renumbered as sections 109.2135, 109.215,  
 997 and 109.217, Florida Statutes, respectively.

998 Section 44. Section 110.219, Florida Statutes, is  
 999 renumbered as section 109.219, Florida Statutes, and paragraph  
 1000 (c) of subsection (5) of said section is amended to read:

1001 109.219 ~~110.219~~ Attendance and leave; general policies.--

1002 (5) Rules shall be adopted by the department in  
 1003 cooperation and consultation with the agencies to implement the



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1004 provisions of this section; however, such rules must be approved  
 1005 by the Administration Commission prior to their adoption. Such  
 1006 rules must provide for, but need not be limited to:

1007 (c) Holidays as provided in s. 109.117 ~~110.117~~.

1008 Section 45. Section 110.221, Florida Statutes, is  
 1009 renumbered as section 109.221, Florida Statutes.

1010 Section 46. Section 110.224, Florida Statutes, is  
 1011 renumbered as section 109.224, Florida Statutes, and amended to  
 1012 read:

1013 109.224 ~~110.224~~ Review and ~~Public employee~~ performance  
 1014 evaluation system.--A review and ~~public employee~~ performance  
 1015 evaluation system shall be established as a basis to evaluate  
 1016 and improve ~~for evaluating and improving~~ the performance of the  
 1017 state's workforce, to inform employees of strong and weak points  
 1018 in the employee's performance, and to identify training needs,  
 1019 ~~and to award lump sum bonuses in accordance with s. 110.1245(2).~~

1020 (1) Upon original appointment, promotion, demotion, or  
 1021 reassignment, a job description of the position assigned must be  
 1022 made available to the career service employee. The job  
 1023 description may be made available in an electronic format.

1024 (2) Each employee must have a performance evaluation  
 1025 performed by a manager who is directly responsible for said  
 1026 employee at least annually, and the employee must receive a copy  
 1027 ~~an oral and written assessment~~ of his or her performance  
 1028 evaluation. The performance evaluation may include a plan of  
 1029 action for improvement of the employee's performance based on  
 1030 the work expectations or performance standards applicable to the  
 1031 position as determined by the agency head.



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1032       (3) Each manager must have a performance report performed  
 1033 by immediate supervised employees at least biannually and the  
 1034 manager must receive copies of his or her performance report.  
 1035 The performance report shall be used to improve management  
 1036 performance to achieve work expectations or performance  
 1037 standards applicable to the position as determined by the agency  
 1038 head.

1039       (4)~~(3)~~ The department may adopt rules to administer the  
 1040 ~~public employee~~ performance evaluation system which establish  
 1041 procedures for performance evaluation, review periods, and  
 1042 forms.

1043       Section 47. Section 110.227, Florida Statutes, is  
 1044 renumbered as section 109.227, Florida Statutes, and amended to  
 1045 read:

1046       (Substantial rewording of section. See  
 1047 s. 110.227, F.S., for present text.)

1048       109.227 Suspensions, dismissals, reductions in pay,  
 1049 demotions, layoffs, transfers, and grievances.--

1050       (1) Any employee who has permanent status in the career  
 1051 service may only be suspended or dismissed for reasonable cause.  
 1052 Reasonable cause includes, but is not limited to, negligence,  
 1053 inefficiency or inability to perform assigned duties,  
 1054 insubordination, violation of the provisions of law or agency  
 1055 rules, conduct unbecoming a public employee, misconduct,  
 1056 habitual drug abuse, or conviction of any crime involving moral  
 1057 turpitude. The agency head shall ensure that all employees of  
 1058 the agency have access to the agency's personnel manual.

1059       (2) The department shall establish rules and procedures  
 1060 for the suspension, reduction in pay, transfer, layoff,



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1061 demotion, and dismissal of employees in the career service.  
1062 Rules regarding layoff procedures shall include a system whereby  
1063 a career service employee with greater seniority has the option  
1064 of selecting a different position not being eliminated within  
1065 the horizontal band and within the employee's vertical incentive  
1066 plan, but already occupied by an employee of less seniority, and  
1067 taking that employee's position, commonly referred to as  
1068 "bumping." Such rules shall be approved by the Administration  
1069 Commission prior to their adoption by the department. Layoff  
1070 procedures shall be developed to establish the relative merit  
1071 and fitness of employees and shall include a formula for uniform  
1072 application among potentially adversely affected employees  
1073 taking into consideration the type of appointment, the length of  
1074 service, and the evaluations of the employee's performance  
1075 within the last 5 years of employment within the horizontal  
1076 band.

1077 (3) Any permanent career service employee who is subject  
1078 to suspension or dismissal shall receive written notice of such  
1079 action at least 10 days prior to the date such action is to be  
1080 taken. Subsequent to such notice, and prior to the date the  
1081 action is to be taken, the affected employee shall be given an  
1082 opportunity to appear before the agency head or the agency  
1083 head's designee to rebut the conclusion that reasonable grounds  
1084 exist for the suspension or dismissal. The notice to the  
1085 employee required by this subsection may be delivered to the  
1086 employee personally or may be sent by certified mail with return  
1087 receipt requested. An employee who is suspended for 8 working  
1088 days or more or dismissed shall be entitled to a hearing before  
1089 the department or an outside, private arbitration mediation



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1090 board or peer review committee chosen by the employee.

1091 Reasonable costs of hearing shall be paid by the losing party.

1092 (4) For any alleged adverse agency action against an  
1093 employee, the agency bears the burden of proof to establish a  
1094 preponderance of evidence that the employee should be suspended,  
1095 dismissed, receive reduction of pay, demoted, laid off, or  
1096 transferred.

1097 (5) A grievance process shall be available to career  
1098 service employees. A grievance is defined as the dissatisfaction  
1099 that occurs when an employee believes that any condition  
1100 affecting the employee is unjust, inequitable, or a hindrance to  
1101 effective operation, or creates a problem, except that an  
1102 employee shall not have the right to file a grievance against  
1103 performance evaluations unless the employee alleges that the  
1104 evaluation is based on factors other than the employee's  
1105 performance. Claims of discrimination and sexual harassment,  
1106 suspensions, reductions in pay, transfers, layoffs, demotions,  
1107 and dismissals are not subject to the career service grievance  
1108 process.

1109 (6) The department shall adopt rules for administration of  
1110 the grievance process for career service employees. Such rules  
1111 shall establish agency grievance procedures, eligibility, filing  
1112 deadlines, forms, and review and evaluation governing the  
1113 grievance process.

1114 Section 48. Effective July 1, 2004, section 109.227,  
1115 Florida Statutes, as renumbered and amended by this act, is  
1116 amended to read:

1117 (Substantial rewording of section. See  
1118 s. 109.227, F.S., for present text.)



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1119 109.227 Suspensions, dismissals, reductions in pay,  
1120 demotion, layoffs, transfers, and grievances.--

1121 (1) Any permanent career service employee subject to  
1122 reduction in pay, transfer, layoff, or demotion from a class in  
1123 which he or she has permanent status in the Career Service  
1124 System shall be notified in writing by the agency prior to its  
1125 taking such action. The notice may be delivered to the employee  
1126 personally or may be sent by certified mail with return receipt  
1127 requested. As of July 1, 2004, such actions shall be appealable  
1128 as provided by this section, or the aggrieved employee and his  
1129 or her employer may agree to submit to voluntary binding  
1130 arbitration. Appeals based on the protections provided by the  
1131 Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with  
1132 the Commission on Human Relations as provided for in that act.

1133 (2) (a) Any permanent career service employee who is  
1134 subject to suspension or dismissal shall receive written notice  
1135 of such action at least 10 days prior to the date such action  
1136 shall be taken. The notice to the employee required by this  
1137 paragraph may be delivered to the employee personally or may be  
1138 sent by certified mail with return receipt requested. As of July  
1139 1, 2004, an employee who is suspended or dismissed shall be  
1140 entitled to a hearing. Appeals based on the protections provided  
1141 by the Whistle-blower's Act, ss. 112.3187-112.31895, must be  
1142 filed with the Commission on Human Relations as provided for in  
1143 that act.

1144 (b) In extraordinary situations such as when the retention  
1145 of a permanent career service employee would result in damage to  
1146 state property, would be detrimental to the best interest of the  
1147 state, or would result in injury to the employee, a fellow





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1148 employee, or some other person, such employee may be suspended  
1149 or dismissed without 10 days' prior notice. Such notice may be  
1150 delivered to the employee personally or may be sent by certified  
1151 mail with return receipt requested. Agency compliance with the  
1152 foregoing procedure requiring notice must be substantiated. As  
1153 of July 1, 2004, any employee who is suspended or dismissed  
1154 pursuant to the provisions of this paragraph shall be entitled  
1155 to a hearing as provided in this section. Appeals based on the  
1156 protections provided by the Whistle-blower's Act, ss. 112.3187-  
1157 112.31895, must be filed with the Commission on Human Relations  
1158 as provided for in that act.

1159 (3) A grievance process shall be available to career  
1160 service employees only through the Department of Management  
1161 Services or a peer review committee. A grievance is defined as  
1162 the dissatisfaction that occurs when an employee believes that  
1163 any condition affecting the employee is unjust, inequitable, or  
1164 a hindrance to effective operation, or creates a problem, except  
1165 that an employee shall not have the right to file a grievance  
1166 against a performance evaluation unless the employee alleges  
1167 that the evaluation is based on factors other than the  
1168 employee's performance or was performed by a person other than  
1169 the employee's immediate supervisor. Claims of discrimination  
1170 and sexual harassment, suspensions, reductions in pay,  
1171 transfers, layoffs, demotions, and dismissals are not subject to  
1172 the career service grievance process.

1173 (4) The department shall adopt rules for administration of  
1174 the grievance process for career service employees. Such rules  
1175 shall establish agency grievance procedures; eligibility; filing



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1176 deadlines, not to exceed 60 days; forms review; and evaluation  
 1177 governing the grievance process.

1178 Section 49. Section 110.233, Florida Statutes, is  
 1179 renumbered as section 109.233, Florida Statutes, and paragraph  
 1180 (a) of subsection (4) of said section is amended to read:

1181 109.233 ~~110.233~~ Political activities and unlawful acts  
 1182 prohibited.--

1183 (4) As an individual, each employee retains all rights and  
 1184 obligations of citizenship provided in the Constitution and laws  
 1185 of the state and the Constitution and laws of the United States.  
 1186 However, no employee in the career service shall:

1187 (a) Hold, or be a candidate for, public office while in  
 1188 the employment of the state or take any active part in a  
 1189 political campaign while on duty or within any period of time  
 1190 during which the employee is expected to perform services for  
 1191 which he or she receives compensation from the state. However,  
 1192 when allowed by the Commission on Ethics ~~authorized by his or~~  
 1193 ~~her agency head and approved by the department~~ as involving no  
 1194 interest which conflicts or activity which interferes with his  
 1195 or her state employment, an employee in the career service may  
 1196 be a candidate for or hold local public office. The ruling of  
 1197 the Commission on Ethics is final and binding. ~~The department~~  
 1198 ~~shall prepare and make available to all affected personnel who~~  
 1199 ~~make such request a definite set of rules and procedures~~  
 1200 ~~consistent with the provisions herein.~~

1201 Section 50. Effective January 1, 2004, paragraph (n) of  
 1202 subsection (2) of section 109.205, Florida Statutes, as  
 1203 renumbered and amended by this act, is repealed.



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1204 Section 51. Effective January 1, 2004, section 109.241,  
1205 Florida Statutes, is created to read:

1206 109.241 Appeals of personnel actions; peer review  
1207 committees.--

1208 (1) Peer review committees shall be appointed as provided  
1209 by this section for the purpose of hearing appeals of permanent  
1210 employees arising from personnel actions which result in  
1211 dismissal, suspension, demotion, transfer, or reduction in pay.  
1212 Reprimands, oral or written, and suspensions of 7 working days  
1213 or less shall not be appealable to such a committee. No more  
1214 than one such action of suspension may occur within 1 calendar  
1215 year without the right to appeal, regardless of the length of  
1216 the suspension.

1217 (2) (a) Each peer review committee shall consist of five  
1218 employees assigned within the vertical incentive plan of the  
1219 employee's employment. Two members shall be selected by the  
1220 department, two members shall be selected by the employee filing  
1221 the appeal, and the fifth member, who shall serve as chair of  
1222 the committee, shall be selected by those four members, with the  
1223 concurrence of the department and the employee requesting the  
1224 hearing. Any person shall have the right to decline to serve as  
1225 a member of the committee. Persons selected to serve on a  
1226 committee shall serve without additional compensation or  
1227 overtime compensation with respect to such service. Once  
1228 selected to a committee, the members shall serve until final  
1229 action is taken by the committee with respect to the purpose for  
1230 which the committee was selected, at which time the committee  
1231 shall be dissolved.



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1232        (b) If the fifth member cannot be agreed upon within 10  
1233 working days after the appeal is submitted, then the parties  
1234 shall jointly request the federal Mediation and Conciliation  
1235 Service to furnish a panel of names of seven arbitrators from  
1236 which each party shall have the option, within 5 working days  
1237 after receipt, of striking three names in alternating fashion.  
1238 The seventh or remaining name shall serve as the fifth member.  
1239 The parties shall jointly notify the arbitrator of his or  
1240 selection. Either party may object to all names on the list, if  
1241 the objection is made prior to the commencement of the striking  
1242 process. If this occurs, the objecting party may request the  
1243 federal Mediation and Conciliation Service to furnish another  
1244 list of arbitrators. No more than two lists may be requested.  
1245 The cost of the arbitrator shall be paid by the losing party.

1246        (3) (a) An appeal of an action specified in subsection (1)  
1247 shall be made to the Secretary of Management Services in  
1248 writing, and must be received by the secretary no later than 14  
1249 calendar days after the employee is notified of the action on  
1250 which the appeal is based.

1251        (b) A peer review committee shall be selected and must  
1252 meet for purposes of hearing the appeal no later than 30 working  
1253 days after the selection of the chair of the committee unless  
1254 the time limit is extended by the committee or with the mutual  
1255 agreement of the parties to the proceeding.

1256        (c) During any hearing, the employee filing the appeal  
1257 shall have the right to be heard publicly, to be represented by  
1258 a person of his or her choice, and to present any evidential  
1259 facts in his or her behalf. During such hearings, the technical  
1260 rules of evidence shall not apply. The committee shall, in the



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1261 conduct of such hearings, have the power to administer oaths,  
1262 issue subpoenas, compel the attendance of witnesses, and require  
1263 the production of books, records, accounts, papers, documents,  
1264 and testimony. In case of disobedience of any person to comply  
1265 with an order of the committee or a subpoena issued by the  
1266 committee or upon the refusal of a witness to testify on any  
1267 matter regarding which he or she may be lawfully interrogated, a  
1268 county judge of the county in which the person resides, upon  
1269 application of a member of the committee, shall compel obedience  
1270 by proceeding as for contempt. Each witness who appears in  
1271 obedience to a subpoena before the committee shall receive  
1272 compensation for attendance, fees, and mileage as provided for  
1273 witnesses in civil cases in the courts of this state. Such  
1274 payments shall be made by the party calling the witness, except  
1275 that with respect to any witnesses called by the committee  
1276 payments shall be made by the department upon presentation of  
1277 proper vouchers and approval by three members of the board.

1278 (d) The department shall bear the burden of establishing  
1279 that the adverse personnel action was for just cause by a  
1280 preponderance of the evidence presented and the discipline  
1281 imposed was appropriate under the circumstances.

1282 (e) A committee shall by majority vote dispose of the  
1283 appeal for which it was appointed by making findings of fact and  
1284 issuing a written decision. Such decision shall either sustain  
1285 or not sustain the action being appealed. If the action being  
1286 appealed is not sustained by a committee, the committee shall  
1287 order such remedial action as is appropriate, which may include  
1288 reinstatement with back pay, and may modify any personnel action  
1289 which was the subject of the appeal. No committee shall have the



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1290 authority to impose on any employee any penalty which is more  
 1291 harsh than that which formed the basis of the appeal.

1292 (f) The decision of the committee shall be final and  
 1293 binding on the employee and the department.

1294 (g) Any representative of a department, division, or  
 1295 agency found to use other means to impose additional actions,  
 1296 including, but not limited to, criminal or other civil action as  
 1297 an attempt to undermine the findings of the committee or  
 1298 arbitrator commits a felony of the third degree, punishable as  
 1299 provided in s. 775.082, s. 775.083, or s. 775.084.

1300 Section 52. Sections 110.401, 110.402, 110.403, 110.405,  
 1301 110.406, 110.601, 110.602, 110.603, 110.604, 110.605, and  
 1302 110.606, Florida Statutes, are repealed.

1303 Section 53. Section 110.501, Florida Statutes, is  
 1304 renumbered as section 109.501, Florida Statutes.

1305 Section 54. Section 110.502, Florida Statutes, is  
 1306 renumbered as section 109.502, Florida Statutes, and subsections  
 1307 (2) and (3) of said section are amended to read:

1308 109.502 ~~110.502~~ Scope of act; status of volunteers.--

1309 (2) Volunteers recruited, trained, or accepted by any  
 1310 state department or agency shall not be subject to any  
 1311 provisions of law relating to state employment, to any  
 1312 collective bargaining agreement between the state and any  
 1313 employees' association or union, or to any laws relating to  
 1314 hours of work, rates of compensation, leave time, and employee  
 1315 benefits, except those consistent with s. 109.504 ~~110.504~~.  
 1316 However, all volunteers shall comply with applicable department  
 1317 or agency rules.



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1318 (3) Every department or agency utilizing the services of  
 1319 volunteers is hereby authorized to provide such incidental  
 1320 reimbursement or benefit consistent with the provisions of s.  
 1321 109.504 ~~110.504~~, including transportation costs, lodging, and  
 1322 subsistence, recognition, and other accommodations as the  
 1323 department or agency deems necessary to assist, recognize,  
 1324 reward, or encourage volunteers in performing their functions.  
 1325 No department or agency shall expend or authorize an expenditure  
 1326 therefor in excess of the amount provided for to the department  
 1327 or agency by appropriation in any fiscal year.

1328 Section 55. Sections 110.503 and 110.504, Florida  
 1329 Statutes, are renumbered as sections 109.503 and 109.504,  
 1330 Florida Statutes, respectively.

1331 Section 56. (1) Sections 109.105 through 109.191, Florida  
 1332 Statutes, are designated as part I of chapter 109, Florida  
 1333 Statutes, to be entitled "General State Employment Provisions."

1334 (2) Sections 109.201 through 109.241, Florida Statutes,  
 1335 are designated as part II of chapter 109, Florida Statutes, to  
 1336 be entitled "Career Service System."

1337 (3) Sections 109.501 through 109.504, Florida Statutes,  
 1338 are designated as part III of chapter 109, Florida Statutes, to  
 1339 be entitled "Volunteers."

1340 Section 57. Subsection (3) of section 20.18, Florida  
 1341 Statutes, is amended to read:

1342 20.18 Department of Community Affairs.--There is created a  
 1343 Department of Community Affairs.

1344 (3) Unless otherwise provided by law, the Secretary of  
 1345 Community Affairs shall appoint the directors or executive  
 1346 directors of any commission or council assigned to the



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1347 department, who shall serve at his or her pleasure as provided  
 1348 for division directors in s. 109.205 ~~110.205~~. The appointment or  
 1349 termination by the secretary will be done with the advice and  
 1350 consent of the commission or council; and the director or  
 1351 executive director may employ, subject to departmental rules and  
 1352 procedures, such personnel as may be authorized and necessary.

1353 Section 58. Subsection (6) of section 20.21, Florida  
 1354 Statutes, is amended to read:

1355 20.21 Department of Revenue.--There is created a  
 1356 Department of Revenue.

1357 (6) Notwithstanding the provisions of s. 109.123 ~~110.123~~,  
 1358 relating to the state group insurance program, the department  
 1359 may pay, or participate in the payment of, premiums for health,  
 1360 accident, and life insurance for its full-time out-of-state  
 1361 employees, pursuant to such rules as it may adopt, and such  
 1362 payments shall be in addition to the regular salaries of such  
 1363 full-time out-of-state employees.

1364 Section 59. Paragraph (d) of subsection (1), paragraph (h)  
 1365 of subsection (2), paragraphs (d), (f), and (i) of subsection  
 1366 (3), paragraphs (c) and (d) of subsection (4), and subsection  
 1367 (5) of section 20.23, Florida Statutes, are amended to read:

1368 20.23 Department of Transportation.--There is created a  
 1369 Department of Transportation which shall be a decentralized  
 1370 agency.

1371 (1)

1372 (d) Any secretary appointed after July 5, 1989, and the  
 1373 assistant secretaries ~~shall be exempt from the provisions of~~  
 1374 ~~part III of chapter 110 and shall receive compensation~~  
 1375 commensurate with their qualifications and competitive with





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1376 compensation for comparable responsibility in the private  
 1377 sector. ~~When the salary of any assistant secretary exceeds the~~  
 1378 ~~limits established in part III of chapter 110, the Governor~~  
 1379 ~~shall approve said salary.~~

1380 (2)

1381 (h) The commission shall appoint an executive director and  
 1382 assistant executive director, who shall serve under the  
 1383 direction, supervision, and control of the commission. The  
 1384 executive director, with the consent of the commission, shall  
 1385 employ such staff as are necessary to perform adequately the  
 1386 functions of the commission, within budgetary limitations. All  
 1387 employees of the commission are exempt from part II of chapter  
 1388 109 ~~110~~ and shall serve at the pleasure of the commission. ~~The~~  
 1389 ~~salaries and benefits of all employees of the commission shall~~  
 1390 ~~be set in accordance with the Selected Exempt Service; provided,~~  
 1391 ~~however, that~~ The commission shall have complete authority for  
 1392 fixing the salary of the executive director and assistant  
 1393 executive director.

1394 (3)

1395 (d)1. Policy, program, or operations offices shall be  
 1396 established within the central office for the purposes of:

1397 a. Developing policy and procedures and monitoring  
 1398 performance to ensure compliance with these policies and  
 1399 procedures;

1400 b. Performing statewide activities which it is more cost-  
 1401 effective to perform in a central location;

1402 c. Assessing and ensuring the accuracy of information  
 1403 within the department's financial management information  
 1404 systems; and



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1405 d. Performing other activities of a statewide nature.

1406 2. The following offices are established and shall be  
 1407 headed by a manager, each of whom shall be appointed by and  
 1408 serve at the pleasure of the secretary. The positions shall be  
 1409 classified at a level equal to a division director:

- 1410 a. The Office of Administration;
- 1411 b. The Office of Policy Planning;
- 1412 c. The Office of Design;
- 1413 d. The Office of Highway Operations;
- 1414 e. The Office of Right-of-Way;
- 1415 f. The Office of Toll Operations;
- 1416 g. The Office of Information Systems; and
- 1417 h. The Office of Motor Carrier Compliance.

1418 3. Other offices may be established in accordance with s.  
 1419 20.04(7). The heads of such offices are exempt from part II of  
 1420 chapter 109 ~~110~~. No office or organization shall be created at a  
 1421 level equal to or higher than a division without specific  
 1422 legislative authority.

1423 4. During the construction of a major transportation  
 1424 improvement project or as determined by the district secretary,  
 1425 the department may provide assistance to a business entity  
 1426 significantly impacted by the project if the entity is a for-  
 1427 profit entity that has been in business for 3 years prior to the  
 1428 beginning of construction and has direct or shared access to the  
 1429 transportation project being constructed. The assistance program  
 1430 shall be in the form of additional guarantees to assist the  
 1431 impacted business entity in receiving loans pursuant to Title 13  
 1432 C.F.R. part 120. However, in no instance shall the combined



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1433 guarantees be greater than 90 percent of the loan. The  
1434 department shall adopt rules to implement this subparagraph.

1435 (f)1. Within the central office there is created an Office  
1436 of Management and Budget. The head of the Office of Management  
1437 and Budget is responsible to the Assistant Secretary for Finance  
1438 and Administration and is exempt from part II of chapter 109  
1439 ~~110~~.

1440 2. The functions of the Office of Management and Budget  
1441 include, but are not limited to:

- 1442 a. Preparation of the work program;
- 1443 b. Preparation of the departmental budget; and
- 1444 c. Coordination of related policies and procedures.

1445 3. The Office of Management and Budget shall also be  
1446 responsible for developing uniform implementation and monitoring  
1447 procedures for all activities performed at the district level  
1448 involving the budget and the work program.

1449 (i)1. The secretary shall appoint a comptroller who is  
1450 responsible to the Assistant Secretary for Finance and  
1451 Administration. This position is exempt from part II of chapter  
1452 109 ~~110~~.

1453 2. The comptroller is the chief financial officer of the  
1454 department and must be a proven, effective administrator who by  
1455 a combination of education and experience clearly possesses a  
1456 broad knowledge of the administrative, financial, and technical  
1457 aspects of a complex cost-accounting system. The comptroller  
1458 must also have a working knowledge of generally accepted  
1459 accounting principles. At a minimum, the comptroller must hold  
1460 an active license to practice public accounting in Florida  
1461 pursuant to chapter 473 or an active license to practice public



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1462 accounting in any other state. In addition to the requirements  
1463 of the Florida Fiscal Accounting Management Information System  
1464 Act, the comptroller is responsible for the development,  
1465 maintenance, and modification of an accounting system that will  
1466 in a timely manner accurately reflect the revenues and  
1467 expenditures of the department and that includes a cost-  
1468 accounting system to properly identify, segregate, allocate, and  
1469 report department costs. The comptroller shall supervise and  
1470 direct preparation of a detailed 36-month forecast of cash and  
1471 expenditures and is responsible for managing cash and  
1472 determining cash requirements. The comptroller shall review all  
1473 comparative cost studies that examine the cost-effectiveness and  
1474 feasibility of contracting for services and operations performed  
1475 by the department. The review must state that the study was  
1476 prepared in accordance with generally accepted cost-accounting  
1477 standards applied in a consistent manner using valid and  
1478 accurate cost data.

1479 3. The department shall by rule or internal management  
1480 memoranda as required by chapter 120 provide for the maintenance  
1481 by the comptroller of financial records and accounts of the  
1482 department as will afford a full and complete check against the  
1483 improper payment of bills and provide a system for the prompt  
1484 payment of the just obligations of the department, which records  
1485 must at all times disclose:

1486 a. The several appropriations available for the use of the  
1487 department;

1488 b. The specific amounts of each such appropriation  
1489 budgeted by the department for each improvement or purpose;



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1490           c. The apportionment or division of all such  
 1491 appropriations among the several counties and districts, when  
 1492 such apportionment or division is made;  
 1493           d. The amount or portion of each such apportionment  
 1494 against general contractual and other liabilities then created;  
 1495           e. The amount expended and still to be expended in  
 1496 connection with each contractual and other obligation of the  
 1497 department;  
 1498           f. The expense and operating costs of the various  
 1499 activities of the department;  
 1500           g. The receipts accruing to the department and the  
 1501 distribution thereof;  
 1502           h. The assets, investments, and liabilities of the  
 1503 department; and  
 1504           i. The cash requirements of the department for a 36-month  
 1505 period.  
 1506           4. The comptroller shall maintain a separate account for  
 1507 each fund administered by the department.  
 1508           5. The comptroller shall perform such other related duties  
 1509 as designated by the department.  
 1510           (4)  
 1511           (c) Each district secretary may appoint a district  
 1512 director for planning and programming, a district director for  
 1513 production, and a district director for operations. These  
 1514 positions are exempt from part II of chapter 109 ~~110~~.  
 1515           (d) Within each district, offices shall be established for  
 1516 managing major functional responsibilities of the department.  
 1517 The offices may include planning, design, construction, right-



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1518 of-way, maintenance, and public transportation. The heads of  
1519 these offices shall be exempt from part II of chapter 109 ~~110~~.

1520 ~~(5) Notwithstanding the provisions of s. 110.205, the~~  
1521 ~~Department of Management Services is authorized to exempt~~  
1522 ~~positions within the Department of Transportation which are~~  
1523 ~~comparable to positions within the Senior Management Service~~  
1524 ~~pursuant to s. 110.205(2)(j) or positions which are comparable~~  
1525 ~~to positions in the Selected Exempt Service under s.~~  
1526 ~~110.205(2)(m).~~

1527 Section 60. Section 109.240, Florida Statutes, is created  
1528 to read:

1529 109.240 Binding arbitration.--

1530 (1) Upon receipt of notice of an adverse agency action,  
1531 any permanent career service employee may request binding  
1532 arbitration as allowed by s. 109.227. As used in this section,  
1533 "adverse agency action" means the suspension, dismissal,  
1534 reduction in pay or withholding of bonuses, demotion, layoff, or  
1535 transfer of an employee. Any eligible employee choosing to  
1536 participate in binding arbitration must file a written request  
1537 for arbitration with the division no later than 14 days after  
1538 the receipt of notice of the adverse agency action.

1539 (2) The arbitration request must be submitted on a form  
1540 prescribed by the division by rule. The form must be signed by  
1541 the employee and must include stipulations that:

1542 (a) The employee is participating in binding arbitration  
1543 pursuant to this section.

1544 (b) The arbitration order is final and may not be set  
1545 aside except for an error in law that is apparent on the record.



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1546       (c) The employee will faithfully abide by the arbitration  
1547 order unless otherwise determined by a court of competent  
1548 jurisdiction.

1549       (3) Upon receipt of the arbitration request, the division  
1550 shall provide written notice to the agency against which a  
1551 request is made regarding the employee request for binding  
1552 arbitration. Failure of the agency to meet established  
1553 deadlines as set forth by the Department of Management Services  
1554 rules shall bind that agency by the stipulations contained in  
1555 the arbitration request form.

1556       (4) The employer bears the burden of establishing by a  
1557 preponderance of the evidence that the agency action met  
1558 criteria established by the Department of Management Services.

1559       (5) Any party may be represented by counsel or another  
1560 appointed representative. The arbitrator must complete all  
1561 arbitration of the employee's claims raised in the request  
1562 within 60 days after receipt of the claim. The arbitrator may  
1563 extend the 60-day period upon request of the parties or at the  
1564 request of one party, after a hearing on that party's request  
1565 for extension.

1566       (6) (a) The arbitrator selected by the division shall be  
1567 provided by the private sector and rotated from a pool of  
1568 approved lists maintained by the Department of Management  
1569 Services. Each selected arbitrator must, at a minimum, meet the  
1570 following requirements:

1571           1. Completion of a Florida Supreme Court certified circuit  
1572 or county arbitration program, or other arbitration program  
1573 approved by the division, in addition to a minimum of 1 day of



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1574 training in the application of this chapter and chapter 447 and  
1575 any rules adopted thereunder.

1576 2. Compliance with the Code of Ethics for Arbitrators in  
1577 Employment Disputes published by the American Arbitration  
1578 Association and the American Bar Association in 1977, as  
1579 amended.

1580 (b) The arbitrator shall have authority to commence and  
1581 adjourn the arbitration hearing. The arbitrator shall not have  
1582 authority to hold any person in contempt or to in any way impose  
1583 sanctions against any person.

1584 (c) The arbitrator shall schedule all arbitration  
1585 proceedings, including the date, time, and location of such  
1586 proceedings and provide notice of the arbitration proceeding to  
1587 the parties at least 5 days in advance of the hearing date,  
1588 unless otherwise agreed to by the parties. The arbitrator has  
1589 the discretion to grant a continuance for reasonable cause.

1590 (d) The arbitrator may set a preliminary conference and  
1591 require all parties to file a statement of position prior to the  
1592 conference. The statement of position may include stipulations  
1593 of the parties to uncontested facts and applicable law,  
1594 citations to all governing statutory or regulatory laws that  
1595 control the controversy, a list of issues of fact and law that  
1596 are in dispute, any proposals designed to expedite the  
1597 arbitration process, a list of documents exchanged by the  
1598 parties and a schedule for the delivery of any additional  
1599 relevant documents, identification of witnesses expected to be  
1600 called during the arbitration proceeding accompanied by a short  
1601 summary of their expected testimony, and any other matters  
1602 specified by the arbitrator.





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1603 (7) Unless otherwise provided in the decision, the  
1604 decision shall become final 10 days after its execution.

1605 (8) The duties of the division in administering binding  
1606 arbitration pursuant to this section include, but are not  
1607 limited to, the following:

1608 (a) Supporting the arbitration process, including the  
1609 filing and noticing of all arbitration requests, objections, and  
1610 other party communications, and the selection of the arbitrator.

1611 (b) Providing for the selection of the arbitrator, which  
1612 includes:

1613 1. Providing selection notice to all parties, the  
1614 arbitrator, and participants.

1615 2. Securing a signed disclosure statement from each  
1616 appointed arbitrator describing any circumstances likely to  
1617 affect impartiality, including any bias or any financial or  
1618 personal interest with either party or any present or past  
1619 relationship with the employee seeking binding arbitration, and  
1620 making these disclosure statements available to the parties. The  
1621 duty to disclose shall be a continuing obligation throughout the  
1622 arbitration process.

1623 3. Filling vacancies.

1624 4. Compensating arbitrators, provided that an arbitrator's  
1625 fees and expenses shall be reasonable, for case preparation,  
1626 prehearing conferences, hearings, and preparation of the  
1627 arbitration order.

1628 5. Making an electronic recording of each arbitration  
1629 proceeding, including preconference hearings, even when a party  
1630 chooses to make a stenographic recording of the arbitration  
1631 proceeding at that party's expense.



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1632 (c) Publishing the final arbitration order submitted to  
1633 the division and both parties by the arbitrator.

1634 (9) The division shall maintain records of each dispute  
1635 submitted to binding arbitration, including the recordings of  
1636 the arbitration hearings. All records maintained by the  
1637 division under this section shall be public records and shall be  
1638 available for inspection upon reasonable notice.

1639 (10) The arbitration proceedings shall be governed by the  
1640 following procedural requirements:

1641 (a) A party may object to the arbitrator based on the  
1642 arbitrator's past or present, direct or indirect, relationship  
1643 with either party or either party's attorney, whether that  
1644 relationship was or is financial, professional, or social. The  
1645 division shall consider any objection to the arbitrator,  
1646 determine its validity, and notify the parties of its  
1647 determination. If the objection is determined valid, the  
1648 division shall appoint another arbitrator.

1649 (b) The arbitrator has the power to issue subpoenas, and  
1650 to effect discovery on the written request of any party by any  
1651 means available to the courts and in the manner provided in the  
1652 Florida Rules of Civil Procedure, including the imposition of  
1653 sanctions, excluding contempt. Fees for attendance of witnesses  
1654 shall be the same as that provided in civil actions in circuit  
1655 courts of this state.

1656 (c) At all arbitration proceedings, the parties may  
1657 present oral and written testimony, present witnesses and  
1658 evidence relevant to the dispute, cross-examine witnesses, and  
1659 be represented by counsel. The arbitrator shall record the



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1660 arbitration hearing and shall have the power to administer  
 1661 oaths.

1662 (d) The arbitrator may continue a hearing on his or her  
 1663 own motion or upon the request of the party for good cause  
 1664 shown. A request for continuance by the employee constitutes a  
 1665 waiver of the 60-day time period for completion of all  
 1666 arbitration proceedings authorized under this section.

1667 (e) The decision shall be rendered within 10 days after  
 1668 the closing of the hearing. The decision shall be in writing on  
 1669 a form prescribed or adopted by the division. The arbitrator  
 1670 shall send a copy of the decision to the parties by registered  
 1671 mail.

1672 (f) Unless otherwise provided, the arbitration decision  
 1673 and any appeals thereof are exempt from the provisions of  
 1674 chapter 120.

1675 (11) (a) The division shall establish rules of procedure  
 1676 governing the arbitration process. Such rules shall include, but  
 1677 are not limited to:

1678 1. The exchange and filing of information among the  
 1679 parties.

1680 2. Discovery.

1681 3. Offering evidence.

1682 4. Calling and excluding witnesses.

1683 5. Submitting evidence by affidavit.

1684 6. Attendance of the parties and witnesses.

1685 7. The order of proceedings.

1686 (b) The division may adopt additional rules to implement  
 1687 this section.



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1688       (12) Either party may make application to the circuit  
1689 court for the county in which one of the parties resides or has  
1690 a place of business, or the county where the arbitration hearing  
1691 was held, for an order enforcing, vacating, or modifying the  
1692 arbitration decision. Such application must be filed within 30  
1693 days after the later of the moving party's receipt of the  
1694 written decision or the date the decision becomes final. Upon  
1695 entry of any judgment or decree, the moving party shall mail a  
1696 copy of such judgment or decree to the division. A review of  
1697 such application to circuit court shall be limited to review on  
1698 the record and not de novo, of:

1699           (a) Any alleged failure of the arbitrator to comply with  
1700 the applicable rules of procedure or evidence.

1701           (b) Any alleged partiality or misconduct by an arbitrator  
1702 prejudicing the rights of any party.

1703           (c) Whether the decision reaches a result contrary to the  
1704 United States Constitution or the Florida Constitution.

1705  
1706 If the arbitrator fails to state findings or reasons for the  
1707 stated decision, or the findings and reasons are inadequate, the  
1708 court shall search the record to determine whether a basis  
1709 exists to uphold the decision.

1710           (13) The division and the arbitrator shall have absolute  
1711 immunity from liability arising from the performance of their  
1712 duties while acting within the scope of their appointed function  
1713 in any arbitration conducted under this section.

1714           Section 61. Paragraph (b) of subsection (3) and paragraph  
1715 (e) of subsection (6) of section 20.315, Florida Statutes, are  
1716 amended to read:



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1717 20.315 Department of Corrections.--There is created a  
 1718 Department of Corrections.

1719 (3) SECRETARY OF CORRECTIONS.--The head of the Department  
 1720 of Corrections is the Secretary of Corrections. The secretary is  
 1721 appointed by the Governor, subject to confirmation by the  
 1722 Senate, and shall serve at the pleasure of the Governor. The  
 1723 secretary is responsible for planning, coordinating, and  
 1724 managing the corrections system of the state. The secretary  
 1725 shall ensure that the programs and services of the department  
 1726 are administered in accordance with state and federal laws,  
 1727 rules, and regulations, with established program standards, and  
 1728 consistent with legislative intent. The secretary shall identify  
 1729 the need for and recommend funding for the secure and efficient  
 1730 operation of the state correctional system.

1731 (b) The secretary shall appoint a general counsel and an  
 1732 inspector general, who are exempt from part II of chapter 109  
 1733 ~~110 and are included in the Senior Management Service.~~

1734 (6) FLORIDA CORRECTIONS COMMISSION.--

1735 (e) The commission shall appoint an executive director and  
 1736 an assistant executive director, who shall serve under the  
 1737 direction, supervision, and control of the commission. The  
 1738 executive director, with the consent of the commission, shall  
 1739 employ such staff as are necessary to perform adequately the  
 1740 functions of the commission, within budgetary limitations. All  
 1741 employees of the commission are exempt from part II of chapter  
 1742 109 ~~110~~ and serve at the pleasure of the commission. ~~The~~  
 1743 ~~salaries and benefits of all employees of the commission shall~~  
 1744 ~~be set in accordance with the Selected Exempt Service rules;~~  
 1745 ~~however,~~ The commission shall have complete authority for fixing



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1746 the salaries of the executive director and the assistant  
 1747 executive director. The executive director and staff of the Task  
 1748 Force for Review of the Criminal Justice and Corrections System,  
 1749 created under chapter 93-404, Laws of Florida, shall serve as  
 1750 the staff for the commission until the commission hires an  
 1751 executive director.

1752 Section 62. Paragraph (d) of subsection (19) of section  
 1753 24.105, Florida Statutes, is amended to read:

1754 24.105 Powers and duties of department.--The department  
 1755 shall:

1756 (19) Employ division directors and other staff as may be  
 1757 necessary to carry out the provisions of this act; however:

1758 (d) The department shall establish and maintain a  
 1759 personnel program for its employees, including a personnel  
 1760 classification and pay plan which may provide any or all of the  
 1761 benefits provided in the Senior Management Service or Selected  
 1762 Exempt Service. Each officer or employee of the department shall  
 1763 be a member of the Florida Retirement System. The retirement  
 1764 class of each officer or employee shall be the same as other  
 1765 persons performing comparable functions for other agencies.  
 1766 Employees of the department shall serve at the pleasure of the  
 1767 secretary and shall be subject to suspension, dismissal,  
 1768 reduction in pay, demotion, transfer, or other personnel action  
 1769 at the discretion of the secretary. Such personnel actions are  
 1770 exempt from the provisions of chapter 120. All employees of the  
 1771 department are exempt from the Career Service System provided in  
 1772 chapter 109 ~~110~~ and, notwithstanding the provisions of s.  
 1773 ~~110.205(5)~~, are not included in either the Senior Management  
 1774 ~~Service or the Selected Exempt Service~~. However, all employees



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1775 of the department are subject to all standards of conduct  
 1776 adopted by rule for career service ~~and senior management~~  
 1777 employees pursuant to chapter 109 ~~110~~. In the event of a  
 1778 conflict between standards of conduct applicable to employees of  
 1779 the Department of the Lottery the more restrictive standard  
 1780 shall apply. Interpretations as to the more restrictive standard  
 1781 may be provided by the Commission on Ethics upon request of an  
 1782 advisory opinion pursuant to s. 112.322(3)(a), for purposes of  
 1783 this subsection the opinion shall be considered final action.

1784 Section 63. Paragraph (d) of subsection (4) of section  
 1785 24.122, Florida Statutes, is amended to read:

1786 24.122 Exemption from taxation; state preemption;  
 1787 inapplicability of other laws.--

1788 (4) Any state or local law providing any penalty,  
 1789 disability, restriction, or prohibition for the possession,  
 1790 manufacture, transportation, distribution, advertising, or sale  
 1791 of any lottery ticket, including chapter 849, shall not apply to  
 1792 the tickets of the state lottery operated pursuant to this act;  
 1793 nor shall any such law apply to the possession of a ticket  
 1794 issued by any other government-operated lottery. In addition,  
 1795 activities of the department under this act are exempt from the  
 1796 provisions of:

1797 (d) Section 109.131 ~~110.131~~, relating to other personal  
 1798 services.

1799 Section 64. Paragraph (a) of subsection (2) of section  
 1800 63.097, Florida Statutes, is amended to read:

1801 63.097 Fees.--



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1802 (2) The following fees, costs, and expenses may be  
 1803 assessed by the adoption entity or paid by the adoption entity  
 1804 on behalf of the prospective adoptive parents:

1805 (a) Reasonable living expenses of the birth mother which  
 1806 the birth mother is unable to pay due to unemployment,  
 1807 underemployment, or disability due to the pregnancy which is  
 1808 certified by a medical professional who has examined the birth  
 1809 mother, or any other disability defined in s. 109.215 ~~110.215~~.  
 1810 Reasonable living expenses are rent, utilities, basic telephone  
 1811 service, food, necessary clothing, transportation, and expenses  
 1812 found by the court to be necessary for the health of the unborn  
 1813 child.

1814 Section 65. Subsection (1) of section 68.087, Florida  
 1815 Statutes, is amended to read:

1816 68.087 Exemptions to civil actions.--

1817 (1) No court shall have jurisdiction over an action  
 1818 brought under this act against a member of the Legislature, a  
 1819 member of the judiciary, or a senior executive branch official  
 1820 if the action is based on evidence or information known to the  
 1821 state government when the action was brought. ~~For purposes of~~  
 1822 ~~this subsection, the term "senior executive branch official"~~  
 1823 ~~means any person employed in the executive branch of government~~  
 1824 ~~holding a position in the Senior Management Service as defined~~  
 1825 ~~in s. 110.402.~~

1826 Section 66. Subsection (3) of section 104.31, Florida  
 1827 Statutes, is amended to read:

1828 104.31 Political activities of state, county, and  
 1829 municipal officers and employees.--





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1830 (3) Nothing contained in this section or in any county or  
 1831 municipal charter shall be deemed to prohibit any public  
 1832 employee from expressing his or her opinions on any candidate or  
 1833 issue or from participating in any political campaign during the  
 1834 employee's off-duty hours, so long as such activities are not in  
 1835 conflict with the provisions of subsection (1) or s. 109.233  
 1836 ~~110.233~~.

1837 Section 67. Subsection (3) of section 106.082, Florida  
 1838 Statutes, is amended to read:

1839 106.082 Commissioner of Agriculture candidates; campaign  
 1840 contribution limits.--

1841 (3) No employee of the Department of Agriculture may  
 1842 solicit a campaign contribution for any candidate for the office  
 1843 of Commissioner of Agriculture from any person or business who  
 1844 is licensed, inspected, or otherwise authorized to do business  
 1845 as a food outlet or convenience store pursuant to chapter 500;  
 1846 or any director, officer, lobbyist, or controlling interest of  
 1847 that person; or any political committee or committee of  
 1848 continuous existence that represents that person. For purposes  
 1849 of this section, "employee of the department" means any person  
 1850 employed in the Department of Agriculture ~~holding a position in~~  
 1851 ~~the Senior Management Service as defined in s. 110.402; any~~  
 1852 ~~person holding a position in the Selected Exempt Service as~~  
 1853 ~~defined in s. 110.602; any person~~ having authority over food  
 1854 outlet or convenience store regulation, or inspection  
 1855 supervision; or any person, hired on a contractual basis, having  
 1856 the power normally conferred upon such person, by whatever  
 1857 title.



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1858 Section 68. Subsection (4) of section 106.24, Florida  
 1859 Statutes, is amended to read:

1860 106.24 Florida Elections Commission; membership; powers;  
 1861 duties.--

1862 (4) The commission shall appoint an executive director,  
 1863 who shall serve under the direction, supervision, and control of  
 1864 the commission. The executive director, with the consent of the  
 1865 commission, shall employ such staff as are necessary to  
 1866 adequately perform the functions of the commission, within  
 1867 budgetary limitations. All employees, except the executive  
 1868 director and attorneys, are subject to part II of chapter 109  
 1869 ~~110~~. The executive director shall serve at the pleasure of the  
 1870 commission ~~and be subject to part III of chapter 110~~, except  
 1871 that the commission shall have complete authority for setting  
 1872 the executive director's salary. ~~Attorneys employed by the~~  
 1873 ~~commission shall be subject to part V of chapter 110.~~

1874 Section 69. Subsection (4) of section 112.044, Florida  
 1875 Statutes, is amended to read:

1876 112.044 Public employers, employment agencies, labor  
 1877 organizations; discrimination based on age prohibited;  
 1878 exceptions; remedy.--

1879 (4) APPEAL; CIVIL SUIT AUTHORIZED.--Any employee of the  
 1880 state who is within the Career Service System established by  
 1881 chapter 109 ~~110~~ and who is aggrieved by a violation of this act  
 1882 may appeal to the Public Employees Relations Commission under  
 1883 the conditions and following the procedures prescribed in part  
 1884 II of chapter 447. Any person other than an employee who is  
 1885 within the Career Service System established by chapter 109 ~~110~~,  
 1886 or any person employed by the Public Employees Relations



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1887 Commission, who is aggrieved by a violation of this act may  
 1888 bring a civil action in any court of competent jurisdiction for  
 1889 such legal or equitable relief as will effectuate the purposes  
 1890 of this act.

1891 Section 70. Subsection (2) of section 20.255, Florida  
 1892 Statutes, is amended to read:

1893 20.255 Department of Environmental Protection.--There is  
 1894 created a Department of Environmental Protection.

1895 (2) (a) There shall be three deputy secretaries who are to  
 1896 be appointed by and shall serve at the pleasure of the  
 1897 secretary. The secretary may assign any deputy secretary the  
 1898 responsibility to supervise, coordinate, and formulate policy  
 1899 for any division, office, or district. The following special  
 1900 offices are established and headed by managers, each of whom is  
 1901 to be appointed by and serve at the pleasure of the secretary:

- 1902 1. Office of Chief of Staff,
- 1903 2. Office of General Counsel,
- 1904 3. Office of Inspector General,
- 1905 4. Office of External Affairs,
- 1906 5. Office of Legislative and Government Affairs, and
- 1907 6. Office of Greenways and Trails.

1908 (b) There shall be six administrative districts involved  
 1909 in regulatory matters of waste management, water resource  
 1910 management, wetlands, and air resources, which shall be headed  
 1911 by managers, each of whom is to be appointed by and serve at the  
 1912 pleasure of the secretary. Divisions of the department may have  
 1913 one assistant or two deputy division directors, as required to  
 1914 facilitate effective operation.

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1916 The managers of all divisions and offices specifically named in  
 1917 this section and the directors of the six administrative  
 1918 districts are exempt from part II of chapter 109 ~~110~~ and are  
 1919 ~~included in the Senior Management Service in accordance with s.~~  
 1920 ~~110.205(2)(j).~~

1921 Section 71. Paragraph (a) of subsection (9) of section  
 1922 112.313, Florida Statutes, is amended to read:

1923 112.313 Standards of conduct for public officers,  
 1924 employees of agencies, and local government attorneys.--

1925 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR  
 1926 LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

1927 (a)1. It is the intent of the Legislature to implement by  
 1928 statute the provisions of s. 8(e), Art. II of the State  
 1929 Constitution relating to legislators, statewide elected  
 1930 officers, appointed state officers, and designated public  
 1931 employees.

1932 2. As used in this paragraph:

1933 a. "Employee" means:

1934 (I) ~~Any person employed in the executive or legislative~~  
 1935 ~~branch of government holding a position in the Senior Management~~  
 1936 ~~Service as defined in s. 110.402 or~~ Any person holding a  
 1937 position in the Selected Exempt Service as defined in s. 109.602  
 1938 ~~110.602~~ or any person having authority over policy or  
 1939 procurement employed by the Department of the Lottery.

1940 (II) The Auditor General, the director of the Office of  
 1941 Program Policy Analysis and Government Accountability, the  
 1942 Sergeant at Arms and Secretary of the Senate, and the Sergeant  
 1943 at Arms and Clerk of the House of Representatives.



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1944 (III) The executive director of the Legislative Committee  
 1945 on Intergovernmental Relations and the executive director and  
 1946 deputy executive director of the Commission on Ethics.

1947 (IV) An executive director, staff director, or deputy  
 1948 staff director of each joint committee, standing committee, or  
 1949 select committee of the Legislature; an executive director,  
 1950 staff director, executive assistant, analyst, or attorney of the  
 1951 Office of the President of the Senate, the Office of the Speaker  
 1952 of the House of Representatives, the Senate Majority Party  
 1953 Office, Senate Minority Party Office, House Majority Party  
 1954 Office, or House Minority Party Office; or any person, hired on  
 1955 a contractual basis, having the power normally conferred upon  
 1956 such persons, by whatever title.

1957 (V) The Chancellor and Vice Chancellors of the State  
 1958 University System; the general counsel to the Board of Regents;  
 1959 and the president, vice presidents, and deans of each state  
 1960 university.

1961 (VI) Any person having the power normally conferred upon  
 1962 the positions referenced in this sub-subparagraph.

1963 b. "Appointed state officer" means any member of an  
 1964 appointive board, commission, committee, council, or authority  
 1965 of the executive or legislative branch of state government whose  
 1966 powers, jurisdiction, and authority are not solely advisory and  
 1967 include the final determination or adjudication of any personal  
 1968 or property rights, duties, or obligations, other than those  
 1969 relative to its internal operations.

1970 c. "State agency" means an entity of the legislative,  
 1971 executive, or judicial branch of state government over which the  
 1972 Legislature exercises plenary budgetary and statutory control.



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1973 3. No member of the Legislature, appointed state officer,  
 1974 or statewide elected officer shall personally represent another  
 1975 person or entity for compensation before the government body or  
 1976 agency of which the individual was an officer or member for a  
 1977 period of 2 years following vacation of office. No member of the  
 1978 Legislature shall personally represent another person or entity  
 1979 for compensation during his or her term of office before any  
 1980 state agency other than judicial tribunals or in settlement  
 1981 negotiations after the filing of a lawsuit.

1982 4. No agency employee shall personally represent another  
 1983 person or entity for compensation before the agency with which  
 1984 he or she was employed for a period of 2 years following  
 1985 vacation of position, unless employed by another agency of state  
 1986 government.

1987 5. Any person violating this paragraph shall be subject to  
 1988 the penalties provided in s. 112.317 and a civil penalty of an  
 1989 amount equal to the compensation which the person receives for  
 1990 the prohibited conduct.

1991 6. This paragraph is not applicable to:

1992 a. A person employed by the Legislature or other agency  
 1993 prior to July 1, 1989;

1994 b. A person who was employed by the Legislature or other  
 1995 agency on July 1, 1989, whether or not the person was a defined  
 1996 employee on July 1, 1989;

1997 c. A person who was a defined employee of the State  
 1998 University System or the Public Service Commission who held such  
 1999 employment on December 31, 1994;



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2000 d. A person who has reached normal retirement age as  
 2001 defined in s. 121.021(29), and who has retired under the  
 2002 provisions of chapter 121 by July 1, 1991; or

2003 e. Any appointed state officer whose term of office began  
 2004 before January 1, 1995, unless reappointed to that office on or  
 2005 after January 1, 1995.

2006 Section 72. Paragraph (a) of subsection (5) of section  
 2007 112.3189, Florida Statutes, is amended to read:

2008 112.3189 Investigative procedures upon receipt of whistle-  
 2009 blower information from certain state employees.--

2010 (5) (a) If the Chief Inspector General or agency inspector  
 2011 general under subsection (3) determines that the information  
 2012 disclosed is the type of information described in s.  
 2013 112.3187(5), that the source of the information is from a person  
 2014 who is an employee or former employee of, or an applicant for  
 2015 employment with, a state agency, as defined in s. 216.011, and  
 2016 that the information disclosed demonstrates reasonable cause to  
 2017 suspect that an employee or agent of an agency or independent  
 2018 contractor has violated any federal, state, or local law, rule,  
 2019 or regulation, thereby creating a substantial and specific  
 2020 danger to the public's health, safety, or welfare, or has  
 2021 committed an act of gross mismanagement, malfeasance,  
 2022 misfeasance, gross waste of public funds, or gross neglect of  
 2023 duty, the Chief Inspector General or agency inspector general  
 2024 making such determination shall then conduct an investigation,  
 2025 unless the Chief Inspector General or the agency inspector  
 2026 general determines, within 30 days after receiving the  
 2027 allegations from the complainant, that such investigation is  
 2028 unnecessary. For purposes of this subsection, the Chief



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2029 Inspector General or the agency inspector general shall consider  
 2030 the following factors, but is not limited to only the following  
 2031 factors, when deciding whether the investigation is not  
 2032 necessary:

2033 1. The gravity of the disclosed information compared to  
 2034 the time and expense of an investigation.

2035 2. The potential for an investigation to yield  
 2036 recommendations that will make state government more efficient  
 2037 and effective.

2038 3. The benefit to state government to have a final report  
 2039 on the disclosed information.

2040 4. Whether the alleged whistle-blower information  
 2041 primarily concerns personnel practices that may be investigated  
 2042 under chapter 109 ~~110~~.

2043 5. Whether another agency may be conducting an  
 2044 investigation and whether any investigation under this section  
 2045 could be duplicative.

2046 6. The time that has elapsed between the alleged event and  
 2047 the disclosure of the information.

2048 Section 73. Paragraph (a) of subsection (2) of section  
 2049 112.363, Florida Statutes, is amended to read:

2050 112.363 Retiree health insurance subsidy.--

2051 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.--

2052 (a) A person who is retired under a state-administered  
 2053 retirement system, or a beneficiary who is a spouse or financial  
 2054 dependent entitled to receive benefits under a state-  
 2055 administered retirement system, is eligible for health insurance  
 2056 subsidy payments provided under this section; except that  
 2057 pension recipients under ss. 121.40, 238.07(16)(a), and 250.22,





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2058 recipients of health insurance coverage under s. 109.1232  
 2059 ~~110.1232~~, or any other special pension or relief act shall not  
 2060 be eligible for such payments.

2061 Section 74. Subsection (38) of section 121.021, Florida  
 2062 Statutes, is amended to read:

2063 121.021 Definitions.--The following words and phrases as  
 2064 used in this chapter have the respective meanings set forth  
 2065 unless a different meaning is plainly required by the context:

2066 (38) "Continuous service" means creditable service as a  
 2067 member, beginning with the first day of employment with an  
 2068 employer covered under a state-administered retirement system  
 2069 consolidated herein and continuing for as long as the member  
 2070 remains in an employer-employee relationship with an employer  
 2071 covered under this chapter. An absence of 1 calendar month or  
 2072 more from an employer's payroll shall be considered a break in  
 2073 continuous service, except for periods of absence during which  
 2074 an employer-employee relationship continues to exist and such  
 2075 period of absence is creditable under this chapter or under one  
 2076 of the existing systems consolidated herein. However, a law  
 2077 enforcement officer as defined in s. 121.0515(2) (a) who was a  
 2078 member of a state-administered retirement system under chapter  
 2079 122 or chapter 321 and who resigned and was subsequently  
 2080 reemployed in a law enforcement position within 12 calendar  
 2081 months of such resignation by an employer under such state-  
 2082 administered retirement system shall be deemed to have not  
 2083 experienced a break in service. Further, with respect to a  
 2084 state-employed law enforcement officer who meets the criteria  
 2085 specified in s. 121.0515(2) (a), if the absence from the  
 2086 employer's payroll is the result of a "layoff" as defined in s.



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2087 109.203(24) ~~110.203(24)~~ or a resignation to run for an elected  
 2088 office that meets the criteria specified in s. 121.0515(2) (a),  
 2089 no break in continuous service shall be deemed to have occurred  
 2090 if the member is reemployed as a state law enforcement officer  
 2091 or is elected to an office which meets the criteria specified in  
 2092 s. 121.0515(2) (a) within 12 calendar months after the date of  
 2093 the layoff or resignation, notwithstanding the fact that such  
 2094 period of layoff or resignation is not creditable service under  
 2095 this chapter. A withdrawal of contributions will constitute a  
 2096 break in service. Continuous service also includes past service  
 2097 purchased under this chapter, provided such service is  
 2098 continuous within this definition and the rules established by  
 2099 the administrator. The administrator may establish  
 2100 administrative rules and procedures for applying this definition  
 2101 to creditable service authorized under this chapter. Any  
 2102 correctional officer, as defined in s. 943.10, whose  
 2103 participation in the state-administered retirement system is  
 2104 terminated due to the transfer of a county detention facility  
 2105 through a contractual agreement with a private entity pursuant  
 2106 to s. 951.062, shall be deemed an employee with continuous  
 2107 service in the Special Risk Class, provided return to employment  
 2108 with the former employer takes place within 3 years due to  
 2109 contract termination or the officer is employed by a covered  
 2110 employer in a special risk position within 1 year after his or  
 2111 her initial termination of employment by such transfer of its  
 2112 detention facilities to the private entity.

2113 Section 75. Paragraph (b) of subsection (3) of section  
 2114 121.0515, Florida Statutes, is amended to read:

2115 121.0515 Special risk membership.--



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2116 (3) PROCEDURE FOR DESIGNATING.--

2117 (b)1. Applying the criteria set forth in this section, the  
 2118 Department of Management Services shall specify which current  
 2119 and newly created classes of positions under the uniform  
 2120 classification plan established pursuant to chapter 109 ~~110~~  
 2121 entitle the incumbents of positions in those classes to  
 2122 membership in the Special Risk Class. Only employees employed in  
 2123 the classes so specified shall be special risk members.

2124 2. When a class is not specified by the department as  
 2125 provided in subparagraph 1., the employing agency may petition  
 2126 the State Retirement Commission for approval in accordance with  
 2127 s. 121.23.

2128 Section 76. Paragraph (a) of subsection (1) of section  
 2129 121.055, Florida Statutes, is amended to read:

2130 121.055 Senior Management Service Class.--There is hereby  
 2131 established a separate class of membership within the Florida  
 2132 Retirement System to be known as the "Senior Management Service  
 2133 Class," which shall become effective February 1, 1987.

2134 (1)(a) Participation in the Senior Management Service  
 2135 Class shall be limited to and compulsory for any member of the  
 2136 Florida Retirement System who holds a position in the Senior  
 2137 Management Service of the State of Florida, established by part  
 2138 III of chapter 109 ~~110~~, unless such member elects, within the  
 2139 time specified herein, to participate in the Senior Management  
 2140 Service Optional Annuity Program as established in subsection  
 2141 (6).

2142 Section 77. Paragraph (a) of subsection (2) of section  
 2143 121.35, Florida Statutes, is amended to read:



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2144 121.35 Optional retirement program for the State

2145 University System.--

2146 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.--

2147 (a) Participation in the optional retirement program  
 2148 provided by this section shall be limited to persons who are  
 2149 otherwise eligible for membership in the Florida Retirement  
 2150 System; who are employed or appointed for no less than one  
 2151 academic year; and who are employed in one of the following  
 2152 State University System positions:

2153 1. Positions classified as instructional and research  
 2154 faculty which are exempt from the career service under the  
 2155 provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

2156 2. Positions classified as administrative and professional  
 2157 which are exempt from the career service under the provisions of  
 2158 s. 109.205(2)(d) ~~110.205(2)(d)~~.

2159 3. The Chancellor and the university presidents.

2160 Section 78. Subsection (5) of section 215.94, Florida  
 2161 Statutes, is amended to read:

2162 215.94 Designation, duties, and responsibilities of  
 2163 functional owners.--

2164 (5) The Department of Management Services shall be the  
 2165 functional owner of the Cooperative Personnel Employment  
 2166 Subsystem. The department shall design, implement, and operate  
 2167 the subsystem in accordance with the provisions of ss. 109.116  
 2168 ~~110.116~~ and 215.90-215.96. The subsystem shall include, but  
 2169 shall not be limited to, functions for:

2170 (a) Maintenance of employee and position data, including  
 2171 funding sources and percentages and salary lapse. The employee  
 2172 data shall include, but not be limited to, information to meet



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2173 the payroll system requirements of the Department of Banking and  
 2174 Finance and to meet the employee benefit system requirements of  
 2175 the Department of Management Services.

2176 (b) Recruitment and examination.

2177 (c) Time reporting.

2178 (d) Collective bargaining.

2179 Section 79. Subsection (2) of section 216.011, Florida  
 2180 Statutes, is amended to read:

2181 216.011 Definitions.--

2182 (2) For purposes of this chapter, terms related to  
 2183 personnel affairs of the state shall be defined as set forth in  
 2184 s. 109.203 ~~110.203~~.

2185 Section 80. Section 112.0805, Florida Statutes, is amended  
 2186 to read:

2187 112.0805 Employer notice of insurance eligibility to  
 2188 employees who retire.--Any employer who provides insurance  
 2189 coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify  
 2190 those employees who retire of their eligibility to participate  
 2191 in either the same group insurance plan or self-insurance plan  
 2192 as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the  
 2193 insurance coverage as provided by this law.

2194 Section 81. Paragraph (a) of subsection (2) of section  
 2195 216.251, Florida Statutes, is amended to read:

2196 216.251 Salary appropriations; limitations.--

2197 (2) (a) The salary for each position not specifically  
 2198 indicated in the appropriations acts shall be as provided in one  
 2199 of the following subparagraphs:

2200 1. Within the classification and pay plans provided for in  
 2201 chapter 109 ~~110~~.



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2202           2. Within the classification and pay plans established by  
 2203 the Board of Trustees for the Florida School for the Deaf and  
 2204 the Blind of the Department of Education and approved by the  
 2205 State Board of Education for academic and academic  
 2206 administrative personnel.

2207           3. Within the classification and pay plan approved and  
 2208 administered by the Board of Regents for those positions in the  
 2209 State University System.

2210           4. Within the classification and pay plan approved by the  
 2211 President of the Senate and the Speaker of the House of  
 2212 Representatives, as the case may be, for employees of the  
 2213 Legislature.

2214           5. Within the approved classification and pay plan for the  
 2215 judicial branch.

2216           6. The salary of all positions not specifically included  
 2217 in this subsection shall be set by the commission or by the  
 2218 Chief Justice for the judicial branch.

2219           Section 82. Subsection (9) of section 1001.28, Florida  
 2220 Statutes, is amended to read:

2221           1001.28 Distance learning duties.--The duties of the  
 2222 Department of Education concerning distance learning include,  
 2223 but are not limited to, the duty to:

2224           (9) Hire appropriate staff which may include a position  
 2225 that shall be exempt from part II of chapter 109 ~~110~~ ~~and is~~  
 2226 ~~included in the Senior Management Service in accordance with s.~~  
 2227 ~~110.205.~~

2228           Section 83. Subsection (19) of section 1001.74, Florida  
 2229 Statutes, is amended to read:



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2230 1001.74 Powers and duties of university boards of  
 2231 trustees.--

2232 (19) Each board of trustees shall establish the personnel  
 2233 program for all employees of the university, including the  
 2234 president, pursuant to the provisions of chapter 1012 and, in  
 2235 accordance with rules and guidelines of the State Board of  
 2236 Education, including: compensation and other conditions of  
 2237 employment, recruitment and selection, nonreappointment,  
 2238 standards for performance and conduct, evaluation, benefits and  
 2239 hours of work, leave policies, recognition and awards,  
 2240 inventions and works, travel, learning opportunities, exchange  
 2241 programs, academic freedom and responsibility, promotion,  
 2242 assignment, demotion, transfer, tenure and permanent status,  
 2243 ethical obligations and conflicts of interest, restrictive  
 2244 covenants, disciplinary actions, complaints, appeals and  
 2245 grievance procedures, and separation and termination from  
 2246 employment. The Department of Management Services shall retain  
 2247 authority over state university employees for programs  
 2248 established in ss. 109.123, 109.1232, 109.1234, and 109.1238  
 2249 ~~110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121,  
 2250 122, and 238.

2251 Section 84. Paragraph (f) of subsection (4) of section  
 2252 1002.36, Florida Statutes, is amended to read:

2253 1002.36 Florida School for the Deaf and the Blind.--

2254 (4) BOARD OF TRUSTEES.--

2255 (f) The board of trustees shall:

2256 1. Prepare and submit legislative budget requests,  
 2257 including fixed capital outlay requests, in accordance with  
 2258 chapter 216 and s. 1013.60.



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2259 2. Administer and maintain personnel programs for all  
 2260 employees of the board of trustees and the Florida School for  
 2261 the Deaf and the Blind who shall be state employees, including  
 2262 the personnel classification and pay plan established in  
 2263 accordance with ss. 109.205(2)(d) ~~110.205(2)(d)~~ and  
 2264 216.251(2)(a)2. for academic and academic administrative  
 2265 personnel, the provisions of chapter 109 ~~110~~, and the provisions  
 2266 of law that grant authority to the Department of Management  
 2267 Services over such programs for state employees.

2268 3. Adopt a master plan which specifies the mission and  
 2269 objectives of the Florida School for the Deaf and the Blind. The  
 2270 plan shall include, but not be limited to, procedures for  
 2271 systematically measuring the school's progress toward meeting  
 2272 its objectives, analyzing changes in the student population, and  
 2273 modifying school programs and services to respond to such  
 2274 changes. The plan shall be for a period of 5 years and shall be  
 2275 reviewed for needed modifications every 2 years. The board of  
 2276 trustees shall submit the initial plan and subsequent  
 2277 modifications to the Speaker of the House of Representatives and  
 2278 the President of the Senate.

2279 4. Seek the advice of the Division of Public Schools  
 2280 within the Department of Education.

2281 Section 85. Section 1012.62, Florida Statutes, is amended  
 2282 to read:

2283 1012.62 Transfer of sick leave and annual leave.--In  
 2284 implementing the provisions of ss. 402.22(1)(d) and  
 2285 1001.42(4)(n), educational personnel in Department of Children  
 2286 and Family Services residential care facilities who are employed  
 2287 by a district school board may request, and the district school





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2288 board shall accept, a lump-sum transfer of accumulated sick  
 2289 leave for such personnel to the maximum allowed by policies of  
 2290 the district school board, notwithstanding the provisions of s.  
 2291 109.122 ~~110.122~~. Educational personnel in Department of Children  
 2292 and Family Services residential care facilities who are employed  
 2293 by a district school board under the provisions of s.  
 2294 402.22(1)(d) may request, and the district school board shall  
 2295 accept, a lump-sum transfer of accumulated annual leave for each  
 2296 person employed by the district school board in a position in  
 2297 the district eligible to accrue vacation leave under policies of  
 2298 the district school board.

2299 Section 86. Section 1012.96, Florida Statutes, is amended  
 2300 to read:

2301 1012.96 IFAS extension personnel; federal health insurance  
 2302 programs notwithstanding the provisions of s. 109.123  
 2303 ~~110.123~~.--The Institute of Food and Agricultural Sciences at the  
 2304 University of Florida may pay the employer's share of premiums  
 2305 to the Federal Health Benefits Insurance Program from its  
 2306 appropriated budget for any cooperative extension employee of  
 2307 the institute having both state and federal appointments and  
 2308 participating in the Federal Civil Service Retirement System.

2309 Section 87. Subsection (2) of section 260.0125, Florida  
 2310 Statutes, is amended to read:

2311 260.0125 Limitation on liability of private landowners  
 2312 whose property is designated as part of the statewide system of  
 2313 greenways and trails.--

2314 (2) Any private landowner who consents to designation of  
 2315 his or her land as part of the statewide system of greenways and  
 2316 trails pursuant to s. 260.016(2)(d) without compensation shall



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2317 be considered a volunteer, as defined in s. 109.501 ~~110.501~~, and  
 2318 shall be covered by state liability protection pursuant to s.  
 2319 768.28, including s. 768.28(9).

2320 Section 88. Section 287.175, Florida Statutes, is amended  
 2321 to read:

2322 287.175 Penalties.--A violation of this part or a rule  
 2323 adopted hereunder, pursuant to applicable constitutional and  
 2324 statutory procedures, constitutes misuse of public position as  
 2325 defined in s. 112.313(6), and is punishable as provided in s.  
 2326 112.317. The Comptroller shall report incidents of suspected  
 2327 misuse to the Commission on Ethics, and the commission shall  
 2328 investigate possible violations of this part or rules adopted  
 2329 hereunder when reported by the Comptroller, notwithstanding the  
 2330 provisions of s. 112.324. Any violation of this part or a rule  
 2331 adopted hereunder shall be presumed to have been committed with  
 2332 wrongful intent, but such presumption is rebuttable. Nothing in  
 2333 this section is intended to deny rights provided to career  
 2334 service employees by s. 109.227 ~~110.227~~.

2335 Section 89. Paragraph (a) of subsection (4) of section  
 2336 295.07, Florida Statutes, is amended to read:

2337 295.07 Preference in appointment and retention.--  
 2338 (4) The following positions are exempt from this section:  
 2339 (a) Those positions that are exempt from the state Career  
 2340 Service System under s. 109.205(2) ~~110.205(2)~~; however, all  
 2341 positions under the University Support Personnel System of the  
 2342 State University System as well as all Career Service System  
 2343 positions under the Florida Community College System and the  
 2344 School for the Deaf and the Blind are included.



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2345 Section 90. Paragraph (b) of subsection (10) of section  
 2346 216.181, Florida Statutes, is amended to read:

2347 216.181 Approved budgets for operations and fixed capital  
 2348 outlay.--

2349 (10)

2350 (b) Lump-sum salary bonuses may be provided only if  
 2351 specifically appropriated or provided pursuant to s. 109.1245  
 2352 ~~110.1245~~ or s. 216.1815.

2353 Section 91. Subsections (2) and (4) of section 296.34,  
 2354 Florida Statutes, are amended to read:

2355 296.34 Administrator; qualifications, duties, and  
 2356 responsibilities.--

2357 (2) The position shall be assigned to the Selected Exempt  
 2358 Service under part V of chapter 109 ~~110~~. The director shall give  
 2359 veterans preference in selecting an administrator, as provided  
 2360 in ss. 295.07 and 295.085. The administrator, at the time of  
 2361 entering employment and at all times while employed as the  
 2362 administrator must hold a current valid license as a nursing  
 2363 home administrator under part II of chapter 468.

2364 (4) All employees who fill authorized and established  
 2365 positions appropriated for the home shall be state employees.  
 2366 The department shall classify such employees in the manner  
 2367 prescribed in chapter 109 ~~110~~.

2368 Section 92. Subsection (5) of section 311.07, Florida  
 2369 Statutes, is amended to read:

2370 311.07 Florida seaport transportation and economic  
 2371 development funding.--

2372 (5) Any port which receives funding under the program  
 2373 shall institute procedures to ensure that jobs created as a



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2374 result of the state funding shall be subject to equal  
 2375 opportunity hiring practices in the manner provided in s.  
 2376 109.112 ~~110.112~~. Section 93. Paragraph (c) of subsection (1)  
 2377 of section 338.2216, Florida Statutes, is amended to read:

2378 338.2216 Florida Turnpike Enterprise; powers and  
 2379 authority.--

2380 (1)

2381 (c) The executive director of the turnpike enterprise  
 2382 shall appoint a staff, which shall be exempt from part II of  
 2383 chapter 109 ~~110~~. Among the staff shall be a chief financial  
 2384 officer, who must be a proven, effective administrator with  
 2385 demonstrated experience in financial management of a large  
 2386 bonded capital program and must hold an active license to  
 2387 practice public accounting in Florida pursuant to chapter 473.  
 2388 The turnpike enterprise staff shall also include the Office of  
 2389 Toll Operations.

2390 Section 94. Paragraph (c) of subsection (10) of section  
 2391 339.175, Florida Statutes, is amended to read:

2392 339.175 Metropolitan planning organization.--It is the  
 2393 intent of the Legislature to encourage and promote the safe and  
 2394 efficient management, operation, and development of surface  
 2395 transportation systems that will serve the mobility needs of  
 2396 people and freight within and through urbanized areas of this  
 2397 state while minimizing transportation-related fuel consumption  
 2398 and air pollution. To accomplish these objectives, metropolitan  
 2399 planning organizations, referred to in this section as M.P.O.'s,  
 2400 shall develop, in cooperation with the state and public transit  
 2401 operators, transportation plans and programs for metropolitan  
 2402 areas. The plans and programs for each metropolitan area must



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2403 provide for the development and integrated management and  
 2404 operation of transportation systems and facilities, including  
 2405 pedestrian walkways and bicycle transportation facilities that  
 2406 will function as an intermodal transportation system for the  
 2407 metropolitan area, based upon the prevailing principles provided  
 2408 in s. 334.046(1). The process for developing such plans and  
 2409 programs shall provide for consideration of all modes of  
 2410 transportation and shall be continuing, cooperative, and  
 2411 comprehensive, to the degree appropriate, based on the  
 2412 complexity of the transportation problems to be addressed.

2413 (10) METROPOLITAN PLANNING ORGANIZATION ADVISORY  
 2414 COUNCIL.--

2415 (c) The powers and duties of the Metropolitan Planning  
 2416 Organization Advisory Council are to:

- 2417 1. Enter into contracts with individuals, private  
 2418 corporations, and public agencies.
- 2419 2. Acquire, own, operate, maintain, sell, or lease  
 2420 personal property essential for the conduct of business.
- 2421 3. Accept funds, grants, assistance, gifts, or bequests  
 2422 from private, local, state, or federal sources.
- 2423 4. Establish bylaws and adopt rules pursuant to ss.  
 2424 120.536(1) and 120.54 to implement provisions of law conferring  
 2425 powers or duties upon it.
- 2426 5. Assist M.P.O.'s in carrying out the urbanized area  
 2427 transportation planning process by serving as the principal  
 2428 forum for collective policy discussion pursuant to law.
- 2429 6. Serve as a clearinghouse for review and comment by  
 2430 M.P.O.'s on the Florida Transportation Plan and on other issues  
 2431 required to comply with federal or state law in carrying out the



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2432 urbanized area transportation and systematic planning processes  
2433 instituted pursuant to s. 339.155.

2434 7. Employ an executive director and such other staff as  
2435 necessary to perform adequately the functions of the council,  
2436 within budgetary limitations. The executive director and staff  
2437 are exempt from part II of chapter 109 ~~110~~ and serve at the  
2438 direction and control of the council. The council is assigned to  
2439 the Office of the Secretary of the Department of Transportation  
2440 for fiscal and accountability purposes, but it shall otherwise  
2441 function independently of the control and direction of the  
2442 department.

2443 8. Adopt an agency strategic plan that provides the  
2444 priority directions the agency will take to carry out its  
2445 mission within the context of the state comprehensive plan and  
2446 any other statutory mandates and directions given to the agency.

2447 Section 95. Subsection (4) of section 343.74, Florida  
2448 Statutes, is amended to read:

2449 343.74 Powers and duties.--

2450 (4) The authority shall institute procedures to ensure  
2451 that jobs created as a result of state funding pursuant to this  
2452 section shall be subject to equal opportunity hiring practices  
2453 as provided for in s. 109.112 ~~110.112~~.

2454 Section 96. Section 373.6065, Florida Statutes, is amended  
2455 to read:

2456 373.6065 Adoption benefits for water management district  
2457 employees.--

2458 (1) Any employee of a water management district is  
2459 eligible to receive monetary benefits for child adoption to the  
2460 same extent as is an employee of the state, as described in s.



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2461 109.152 ~~110.152~~. The employee shall apply for such benefits  
 2462 pursuant to s. 109.15201 ~~110.15201~~.

2463 (2) The Comptroller and the Department of Management  
 2464 Services shall transfer funds to water management districts to  
 2465 pay eligible water management district employees for these child  
 2466 adoption monetary benefits in accordance with s. 215.32(1)(c)5.,  
 2467 as long as funds remain available for the program described  
 2468 under s. 109.152 ~~110.152~~.

2469 (3) Parental leave for eligible water management district  
 2470 employees shall be provided according to the policies and  
 2471 procedures of the individual water management district in  
 2472 existence at the time eligibility is determined.

2473 (4) Each water management district shall develop means of  
 2474 implementing these monetary adoption benefits for water  
 2475 management district employees, consistent with its current  
 2476 practices. Water management district rules, policies,  
 2477 guidelines, or procedures so implemented will remain valid and  
 2478 enforceable as long as they do not conflict with the express  
 2479 terms of s. 109.152 ~~110.152~~.

2480 Section 97. Subsection (2) of section 381.00315, Florida  
 2481 Statutes, is amended to read:

2482 381.00315 Public health advisories; public health  
 2483 emergencies.--The State Health Officer is responsible for  
 2484 declaring public health emergencies and issuing public health  
 2485 advisories.

2486 (2) Individuals who assist the State Health Officer at his  
 2487 or her request on a volunteer basis during a public health  
 2488 emergency are entitled to the benefits specified in s.  
 2489 109.504(2), (3), (4), and (5) ~~110.504(2), (3), (4), and (5)~~.



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2490 Section 98. Paragraph (e) of subsection (3) of section  
 2491 381.85, Florida Statutes, is amended to read:

2492 381.85 Biomedical and social research.--

2493 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.--

2494 (e) The council shall be staffed by an executive director  
 2495 and a secretary who shall be appointed by the council and who  
 2496 shall be exempt from the provisions of part II of chapter 109  
 2497 ~~110~~ relating to the Career Service System.

2498 Section 99. Section 393.0657, Florida Statutes, is amended  
 2499 to read:

2500 393.0657 Persons not required to be refingerprinted or  
 2501 rescreened.--Any provision of law to the contrary  
 2502 notwithstanding, human resource personnel who have been  
 2503 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 2504 402, and 409, and teachers who have been fingerprinted pursuant  
 2505 to chapter 1012, who have not been unemployed for more than 90  
 2506 days thereafter, and who under the penalty of perjury attest to  
 2507 the completion of such fingerprinting or screening and to  
 2508 compliance with the provisions of this section and the standards  
 2509 for good moral character as contained in such provisions as ss.  
 2510 109.1127(3) ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451,  
 2511 402.305(2), and 409.175(5), shall not be required to be  
 2512 refingerprinted or rescreened in order to comply with any direct  
 2513 service provider screening or fingerprinting requirements.

2514 Section 100. Subsections (3) and (4) of section 296.04,  
 2515 Florida Statutes, are amended to read:

2516 296.04 Administrator; duties and qualifications;  
 2517 responsibilities.--





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2518 (3) The administrator position shall be assigned to the  
 2519 Selected Exempt Service under part V of chapter 109 ~~110~~. The  
 2520 director shall give veterans' preference in selecting an  
 2521 administrator, as provided in ss. 295.07 and 295.085. In  
 2522 addition, the administrator must have at least a 4-year degree  
 2523 from an accredited university or college and 3 years of  
 2524 administrative experience in a health care facility, or any  
 2525 equivalent combination of experience, training, and education  
 2526 totaling 7 years in work relating to administration of a health  
 2527 care facility.

2528 (4) All employees who fill authorized and established  
 2529 positions appropriated for the home shall be state employees.  
 2530 The department shall classify such employees in the manner  
 2531 prescribed in chapter 109 ~~110~~.

2532 Section 101. Subsection (3) of section 400.953, Florida  
 2533 Statutes, is amended to read:

2534 400.953 Background screening of home medical equipment  
 2535 provider personnel.--The agency shall require employment  
 2536 screening as provided in chapter 435, using the level 1  
 2537 standards for screening set forth in that chapter, for home  
 2538 medical equipment provider personnel.

2539 (3) Proof of compliance with the screening requirements of  
 2540 s. 109.1127 ~~110.1127~~, s. 393.0655, s. 394.4572, s. 397.451, s.  
 2541 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or  
 2542 this part must be accepted in lieu of the requirements of this  
 2543 section if the person has been continuously employed in the same  
 2544 type of occupation for which he or she is seeking employment  
 2545 without a breach in service that exceeds 180 days, the proof of  
 2546 compliance is not more than 2 years old, and the person has been



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2547 screened by the Department of Law Enforcement. An employer or  
 2548 contractor shall directly provide proof of compliance to another  
 2549 employer or contractor, and a potential employer or contractor  
 2550 may not accept any proof of compliance directly from the person  
 2551 requiring screening. Proof of compliance with the screening  
 2552 requirements of this section shall be provided, upon request, to  
 2553 the person screened by the home medical equipment provider.

2554 Section 102. Section 402.3057, Florida Statutes, is  
 2555 amended to read:

2556 402.3057 Persons not required to be refingerprinted or  
 2557 rescreened.--Any provision of law to the contrary  
 2558 notwithstanding, human resource personnel who have been  
 2559 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 2560 402, and 409, and teachers and noninstructional personnel who  
 2561 have been fingerprinted pursuant to chapter 1012, who have not  
 2562 been unemployed for more than 90 days thereafter, and who under  
 2563 the penalty of perjury attest to the completion of such  
 2564 fingerprinting or screening and to compliance with the  
 2565 provisions of this section and the standards for good moral  
 2566 character as contained in such provisions as ss. 109.1127(3)  
 2567 ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 2568 409.175(5), shall not be required to be refingerprinted or  
 2569 rescreened in order to comply with any caretaker screening or  
 2570 fingerprinting requirements.

2571 Section 103. Subsection (4) of section 402.55, Florida  
 2572 Statutes, is amended to read:

2573 402.55 Management fellows program.--



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2574 (4) Notwithstanding the provisions of chapter 109 ~~110~~, the  
 2575 departments may grant special pay increases to management  
 2576 fellows upon successful completion of the program.

2577 Section 104. Subsection (2) of section 402.731, Florida  
 2578 Statutes, is amended to read:

2579 402.731 Department of Children and Family Services  
 2580 certification programs for employees and service providers;  
 2581 employment provisions for transition to community-based care.--

2582 (2) The department shall develop and implement employment  
 2583 programs to attract and retain competent staff to support and  
 2584 facilitate the transition to privatized community-based care.  
 2585 Such employment programs shall include lump-sum bonuses, salary  
 2586 incentives, relocation allowances, or severance pay. The  
 2587 department shall also contract for the delivery or  
 2588 administration of outplacement services. The department shall  
 2589 establish time-limited exempt positions as provided in s.  
 2590 109.205(2)(i) ~~110.205(2)(i)~~, in accordance with the authority  
 2591 provided in s. 216.262(1)(c)1. Employees appointed to fill such  
 2592 exempt positions shall have the same salaries and benefits as  
 2593 career service employees.

2594 Section 105. Section 409.1757, Florida Statutes, is  
 2595 amended to read:

2596 409.1757 Persons not required to be refingerprinted or  
 2597 rescreened.--Any provision of law to the contrary  
 2598 notwithstanding, human resource personnel who have been  
 2599 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 2600 402, and this chapter, and teachers who have been fingerprinted  
 2601 pursuant to chapter 1012, who have not been unemployed for more  
 2602 than 90 days thereafter, and who under the penalty of perjury



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2603 attest to the completion of such fingerprinting or screening and  
 2604 to compliance with the provisions of this section and the  
 2605 standards for good moral character as contained in such  
 2606 provisions as ss. 109.1127(3) ~~110.1127(3)~~, 393.0655(1),  
 2607 394.457(6), 397.451, 402.305(2), and 409.175(5), shall not be  
 2608 required to be refingerprinted or rescreened in order to comply  
 2609 with any caretaker screening or fingerprinting requirements.

2610 Section 106. Section 409.9205, Florida Statutes, is  
 2611 amended to read:

2612 409.9205 Medicaid Fraud Control Unit.--

2613 (1) Except as provided in s. 109.205 ~~110.205~~, all  
 2614 positions in the Medicaid Fraud Control Unit of the Department  
 2615 of Legal Affairs are hereby transferred to the Career Service  
 2616 System.

2617 (2) All investigators employed by the Medicaid Fraud  
 2618 Control Unit who have been certified under s. 943.1395 are law  
 2619 enforcement officers of the state. Such investigators have the  
 2620 authority to conduct criminal investigations, bear arms, make  
 2621 arrests, and apply for, serve, and execute search warrants,  
 2622 arrest warrants, capias, and other process throughout the state  
 2623 pertaining to Medicaid fraud as described in this chapter. The  
 2624 Attorney General shall provide reasonable notice of criminal  
 2625 investigations conducted by the Medicaid Fraud Control Unit to,  
 2626 and coordinate those investigations with, the sheriffs of the  
 2627 respective counties.

2628 Section 107. Paragraph (o) of subsection (1) of section  
 2629 440.102, Florida Statutes, is amended to read:

2630 440.102 Drug-free workplace program requirements.--The  
 2631 following provisions apply to a drug-free workplace program



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2632 implemented pursuant to law or to rules adopted by the Agency  
 2633 for Health Care Administration:

2634 (1) DEFINITIONS.--Except where the context otherwise  
 2635 requires, as used in this act:

2636 (o) "Safety-sensitive position" means, with respect to a  
 2637 public employer, a position in which a drug impairment  
 2638 constitutes an immediate and direct threat to public health or  
 2639 safety, such as a position that requires the employee to carry a  
 2640 firearm, perform life-threatening procedures, work with  
 2641 confidential information or documents pertaining to criminal  
 2642 investigations, or work with controlled substances; a position  
 2643 subject to s. 109.1127 ~~110.1127~~; or a position in which a  
 2644 momentary lapse in attention could result in injury or death to  
 2645 another person.

2646 Section 108. Subsection (4) of section 443.171, Florida  
 2647 Statutes, is amended to read:

2648 443.171 Division and commission; powers and duties; rules;  
 2649 advisory council; records and reports; proceedings; state-  
 2650 federal cooperation.--

2651 (4) PERSONNEL.--Subject to chapter 109 ~~110~~ and the other  
 2652 provisions of this chapter, the division is authorized to  
 2653 appoint, fix the compensation of, and prescribe the duties and  
 2654 powers of such employees, accountants, attorneys, experts, and  
 2655 other persons as may be necessary in the performance of its  
 2656 duties under this chapter. The division may delegate to any such  
 2657 person such power and authority as it deems reasonable and  
 2658 proper for the effective administration of this chapter and may  
 2659 in its discretion bond any person handling moneys or signing



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2660 checks hereunder; the cost of such bonds shall be paid from the  
 2661 Employment Security Administration Trust Fund.

2662 Section 109. Subsection (8) and paragraph (a) of  
 2663 subsection (9) of section 447.207, Florida Statutes, are amended  
 2664 to read:

2665 447.207 Commission; powers and duties.--

2666 (8) The commission or its designated agent shall hear  
 2667 appeals arising out of any suspension, reduction in pay,  
 2668 demotion, or dismissal of any permanent employee in the State  
 2669 Career Service System in the manner provided in s. 109.227  
 2670 ~~110.227~~.

2671 (9) Pursuant to s. 447.208, the commission or its  
 2672 designated agent shall hear appeals, and enter such orders as it  
 2673 deems appropriate, arising out of:

2674 (a) Section 109.124 ~~110.124~~, relating to termination or  
 2675 transfer of State Career Service System employees aged 67 ~~65~~ or  
 2676 older.

2677 Section 110. Subsection (3) of section 400.19, Florida  
 2678 Statutes, is amended to read:

2679 400.19 Right of entry and inspection.--

2680 (3) The agency shall every 15 months conduct at least one  
 2681 unannounced inspection to determine compliance by the licensee  
 2682 with statutes, and with rules promulgated under the provisions  
 2683 of those statutes, governing minimum standards of construction,  
 2684 quality and adequacy of care, and rights of residents. The  
 2685 survey shall be conducted every 6 months for the next 2-year  
 2686 period if the facility has been cited for a class I deficiency,  
 2687 has been cited for two or more class II deficiencies arising  
 2688 from separate surveys or investigations within a 60-day period,



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2689 or has had three or more substantiated complaints within a 6-  
 2690 month period, each resulting in at least one class I or class II  
 2691 deficiency. In addition to any other fees or fines in this part,  
 2692 the agency shall assess a fine for each facility that is subject  
 2693 to the 6-month survey cycle. The fine for the 2-year period  
 2694 shall be \$6,000, one-half to be paid at the completion of each  
 2695 survey. The agency may adjust this fine by the change in the  
 2696 Consumer Price Index, based on the 12 months immediately  
 2697 preceding the increase, to cover the cost of the additional  
 2698 surveys. The agency shall verify through subsequent inspection  
 2699 that any deficiency identified during the annual inspection is  
 2700 corrected. However, the agency may verify the correction of a  
 2701 class III or class IV deficiency unrelated to resident rights or  
 2702 resident care without reinspecting the facility if adequate  
 2703 written documentation has been received from the facility, which  
 2704 provides assurance that the deficiency has been corrected. The  
 2705 giving or causing to be given of advance notice of such  
 2706 unannounced inspections by an employee of the agency to any  
 2707 unauthorized person shall constitute cause for suspension of not  
 2708 fewer than 5 working days according to the provisions of chapter  
 2709 109 ~~110~~.

2710 Section 111. Subsection (3) of section 471.038, Florida  
 2711 Statutes, is amended to read:

2712 471.038 Florida Engineers Management Corporation.--

2713 (3) The Florida Engineers Management Corporation is  
 2714 created to provide administrative, investigative, and  
 2715 prosecutorial services to the board in accordance with the  
 2716 provisions of chapter 455 and this chapter. The management  
 2717 corporation may hire staff as necessary to carry out its



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2718 functions. Such staff are not public employees for the purposes  
 2719 of chapter 109 ~~110~~ or chapter 112, except that the board of  
 2720 directors and the staff are subject to the provisions of s.  
 2721 112.061. The provisions of s. 768.28 apply to the management  
 2722 corporation, which is deemed to be a corporation primarily  
 2723 acting as an instrumentality of the state, but which is not an  
 2724 agency within the meaning of s. 20.03(11). The management  
 2725 corporation shall:

2726 (a) Be a Florida corporation not for profit, incorporated  
 2727 under the provisions of chapter 617.

2728 (b) Provide administrative, investigative, and  
 2729 prosecutorial services to the board in accordance with the  
 2730 provisions of chapter 455, this chapter, and the contract  
 2731 required by this section.

2732 (c) Receive, hold, and administer property and make only  
 2733 prudent expenditures directly related to the responsibilities of  
 2734 the board, and in accordance with the contract required by this  
 2735 section.

2736 (d) Be approved by the board and the department to operate  
 2737 for the benefit of the board and in the best interest of the  
 2738 state.

2739 (e) Operate under a fiscal year that begins on July 1 of  
 2740 each year and ends on June 30 of the following year.

2741 (f) Have a seven-member board of directors, five of whom  
 2742 are to be appointed by the board and must be registrants  
 2743 regulated by the board and two of whom are to be appointed by  
 2744 the secretary and must be laypersons not regulated by the board.  
 2745 All initial appointments shall expire on October 31, 2000.  
 2746 Current members may be appointed to one additional term that





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2747 complies with the provisions of this paragraph. Two members  
2748 shall be appointed for 2 years, three members shall be appointed  
2749 for 3 years, and two members shall be appointed for 4 years. One  
2750 layperson shall be appointed to a 3-year term and one layperson  
2751 shall be appointed to a 4-year term. Thereafter, all  
2752 appointments shall be for 4-year terms. No new member shall  
2753 serve more than two consecutive terms. Failure to attend three  
2754 consecutive meetings shall be deemed a resignation from the  
2755 board, and the vacancy shall be filled by a new appointment.

2756 (g) Select its officers in accordance with its bylaws. The  
2757 members of the board of directors may be removed by the board,  
2758 with the concurrence of the department, for the same reasons  
2759 that a board member may be removed.

2760 (h) Use a portion of the interest derived from the  
2761 management corporation account to offset the costs associated  
2762 with the use of credit cards for payment of fees by applicants  
2763 or licensees.

2764 (i) Operate under an annual written contract with the  
2765 department which is approved by the board. The contract must  
2766 provide for, but is not limited to:

2767 1. Approval of the articles of incorporation and bylaws of  
2768 the management corporation by the department and the board.

2769 2. Submission by the management corporation of an annual  
2770 budget that complies with board rules for approval by the board  
2771 and the department.

2772 3. Annual certification by the board and the department  
2773 that the management corporation is complying with the terms of  
2774 the contract in a manner consistent with the goals and purposes  
2775 of the board and in the best interest of the state. This



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2776 certification must be reported in the board's minutes. The  
2777 contract must also provide for methods and mechanisms to resolve  
2778 any situation in which the certification process determines  
2779 noncompliance.

2780 4. Employment by the department of a contract  
2781 administrator to actively supervise the administrative,  
2782 investigative, and prosecutorial activities of the management  
2783 corporation to ensure compliance with the contract and the  
2784 provisions of chapter 455 and this chapter and to act as a  
2785 liaison for the department, the board, and the management  
2786 corporation to ensure the effective operation of the management  
2787 corporation.

2788 5. Funding of the management corporation through  
2789 appropriations allocated to the regulation of professional  
2790 engineers from the Professional Regulation Trust Fund.

2791 6. The reversion to the board, or the state if the board  
2792 ceases to exist, of moneys, records, data, and property held in  
2793 trust by the management corporation for the benefit of the  
2794 board, if the management corporation is no longer approved to  
2795 operate for the board or the board ceases to exist. All records  
2796 and data in a computerized database shall be returned to the  
2797 department in a form that is compatible with the computerized  
2798 database of the department.

2799 7. The securing and maintaining by the management  
2800 corporation, during the term of the contract and for all acts  
2801 performed during the term of the contract, of all liability  
2802 insurance coverages in an amount to be approved by the  
2803 department to defend, indemnify, and hold harmless the  
2804 management corporation and its officers and employees, the



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2805 department and its employees, and the state against all claims  
 2806 arising from state and federal laws. Such insurance coverage  
 2807 must be with insurers qualified and doing business in the state.  
 2808 The management corporation must provide proof of insurance to  
 2809 the department. The department and its employees and the state  
 2810 are exempt from and are not liable for any sum of money which  
 2811 represents a deductible, which sums shall be the sole  
 2812 responsibility of the management corporation. Violation of this  
 2813 subparagraph shall be grounds for terminating the contract.

2814 8. Payment by the management corporation, out of its  
 2815 allocated budget, to the department of all costs of  
 2816 representation by the board counsel, including salary and  
 2817 benefits, travel, and any other compensation traditionally paid  
 2818 by the department to other board counsels.

2819 9. Payment by the management corporation, out of its  
 2820 allocated budget, to the department of all costs incurred by the  
 2821 management corporation or the board for the Division of  
 2822 Administrative Hearings of the Department of Management Services  
 2823 and any other cost for utilization of these state services.

2824 10. Payment by the management corporation, out of its  
 2825 allocated budget, to the department of all costs associated with  
 2826 the contract administrator of the department, including salary  
 2827 and benefits, travel, and other related costs traditionally paid  
 2828 to state employees.

2829 (j) Provide for an annual financial audit of its financial  
 2830 accounts and records by an independent certified public  
 2831 accountant. The annual audit report shall include a management  
 2832 letter in accordance with s. 11.45 and a detailed supplemental  
 2833 schedule of expenditures for each expenditure category. The



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2834 annual audit report must be submitted to the board, the  
 2835 department, and the Auditor General for review.

2836 (k) Provide for persons charged with the responsibility of  
 2837 receiving and depositing fee and fine revenues to have a  
 2838 faithful performance bond in such an amount and according to  
 2839 such terms as shall be determined in the contract.

2840 (l) Submit to the secretary, the board, and the  
 2841 Legislature, on or before January 1 of each year, a report on  
 2842 the status of the corporation which includes, but is not limited  
 2843 to, information concerning the programs and funds that have been  
 2844 transferred to the corporation. The report must include: the  
 2845 number of license applications received; the number approved and  
 2846 denied and the number of licenses issued; the number of  
 2847 examinations administered and the number of applicants who  
 2848 passed or failed the examination; the number of complaints  
 2849 received; the number determined to be legally sufficient; the  
 2850 number dismissed; the number determined to have probable cause;  
 2851 the number of administrative complaints issued and the status of  
 2852 the complaints; and the number and nature of disciplinary  
 2853 actions taken by the board.

2854 (m) Develop, with the department, performance standards  
 2855 and measurable outcomes for the board to adopt by rule in order  
 2856 to facilitate efficient and cost-effective regulation.

2857 Section 112. Subsection (3) of section 509.036, Florida  
 2858 Statutes, is amended to read:

2859 509.036 Public food service inspector standardization.--

2860 (3) The division and its agent shall adopt rules in  
 2861 accordance with the provisions of chapter 120 to provide for  
 2862 disciplinary action in cases of inspector negligence. An



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2863 inspector may be subject to suspension or dismissal for  
 2864 reasonable cause as set forth in s. 109.227 ~~110.227~~.

2865 Section 113. Subsection (1) of section 570.073, Florida  
 2866 Statutes, is amended to read:

2867 570.073 Department of Agriculture and Consumer Services,  
 2868 law enforcement officers.--

2869 (1) The commissioner may create an Office of Agricultural  
 2870 Law Enforcement under the supervision of a senior manager exempt  
 2871 under s. 109.205 ~~110.205~~ ~~in the Senior Management Service~~. The  
 2872 commissioner may designate law enforcement officers, as  
 2873 necessary, to enforce any criminal law or conduct any criminal  
 2874 investigation or to enforce the provisions of any statute or any  
 2875 other laws of this state. Officers appointed under this section  
 2876 shall have the primary responsibility for enforcing laws  
 2877 relating to agriculture and consumer services, as outlined in  
 2878 this section, and have jurisdiction over violations of law which  
 2879 threaten the overall security and safety of this state's  
 2880 agriculture and consumer services. The primary responsibilities  
 2881 of officers appointed under this section include the enforcement  
 2882 of laws relating to:

2883 (a) Domesticated animals, including livestock, poultry,  
 2884 aquaculture products, and other wild or domesticated animals or  
 2885 animal products.

2886 (b) Farms, farm equipment, livery tack, citrus or citrus  
 2887 products, or horticultural products.

2888 (c) Trespass, littering, forests, forest fires, and open  
 2889 burning.

2890 (d) Damage to or theft of forest products.

2891 (e) Enforcement of a marketing order.



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- 2892 (f) Protection of consumers.
- 2893 (g) Civil traffic offenses as provided in state law.
- 2894 (h) The use of alcohol or drugs which occurs on property
- 2895 owned, managed, or occupied by the department.
- 2896 (i) Any emergency situation in which the life, limb, or
- 2897 property of any person is placed in immediate and serious
- 2898 danger.
- 2899 (j) Any crime incidental to or related to paragraphs (a)-
- 2900 (i).
- 2901 (k) The responsibilities of the Commissioner of
- 2902 Agriculture.

2903 Section 114. Section 570.074, Florida Statutes, is amended

2904 to read:

2905 570.074 Department of Agriculture and Consumer Services;

2906 water policy coordination.--The commissioner may create an

2907 Office of Water Coordination under the supervision of a senior

2908 manager exempt under s. 109.205 ~~110.205~~ in the Senior Management

2909 ~~Service~~. The commissioner may designate the bureaus and

2910 positions in the various organizational divisions of the

2911 department that report to this office relating to any matter

2912 over which the department has jurisdiction in matters relating

2913 to water policy affecting agriculture, application of such

2914 policies, and coordination of such matters with state and

2915 federal agencies.

2916 Section 115. Subsection (6) of section 624.307, Florida

2917 Statutes, is amended to read:

2918 624.307 General powers; duties.--

2919 (6) The department may employ actuaries who shall be at-

2920 will employees and who shall serve at the pleasure of the



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2921 Insurance Commissioner. Actuaries employed pursuant to this  
 2922 paragraph shall be members of the Society of Actuaries or the  
 2923 Casualty Actuarial Society and shall be exempt from the Career  
 2924 Service System established under chapter 109 ~~110~~. The salaries  
 2925 of the actuaries employed pursuant to this paragraph by the  
 2926 department shall be set in accordance with s. 216.251(2)(a)5.  
 2927 and shall be set at levels which are commensurate with salary  
 2928 levels paid to actuaries by the insurance industry.

2929 Section 116. Subsection (4) of section 627.0623, Florida  
 2930 Statutes, is amended to read:

2931 627.0623 Restrictions on expenditures and solicitations of  
 2932 insurers and affiliates.--

2933 (4) No employee of the department may solicit a campaign  
 2934 contribution for the Treasurer or any candidate for the office  
 2935 of Treasurer from any insurer, affiliate, or officer of an  
 2936 insurer or affiliate, or any political committee or committee of  
 2937 continuous existence that represents such insurer, affiliate, or  
 2938 officer. For purposes of this section, "employee of the  
 2939 department" means any person employed in the Department of  
 2940 Insurance or the Treasurer's office ~~holding a position in the~~  
 2941 ~~Senior Management Service as defined in s. 110.402; any person~~  
 2942 ~~holding a position in the Selected Exempt Service as defined in~~  
 2943 ~~s. 110.602; any person~~ having authority over insurance policy,  
 2944 regulation, or supervision; or any person hired on a contractual  
 2945 basis, having the power normally conferred upon such person, by  
 2946 whatever title.

2947 Section 117. Paragraph (h) of subsection (4) of section  
 2948 627.6488, Florida Statutes, is amended to read:

2949 627.6488 Florida Comprehensive Health Association.--



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2950           (4) The association shall:  
 2951           (h) Contract with preferred provider organizations and  
 2952 health maintenance organizations giving due consideration to the  
 2953 preferred provider organizations and health maintenance  
 2954 organizations which have contracted with the state group health  
 2955 insurance program pursuant to s. 109.123 ~~110.123~~. If cost-  
 2956 effective and available in the county where the policyholder  
 2957 resides, the board, upon application or renewal of a policy,  
 2958 shall place a high-risk individual, as established under s.  
 2959 627.6498(4)(a)4., with the plan case manager who shall determine  
 2960 the most cost-effective quality care system or health care  
 2961 provider and shall place the individual in such system or with  
 2962 such health care provider. If cost-effective and available in  
 2963 the county where the policyholder resides, the board, with the  
 2964 consent of the policyholder, may place a low-risk or medium-risk  
 2965 individual, as established under s. 627.6498(4)(a)4., with the  
 2966 plan case manager who may determine the most cost-effective  
 2967 quality care system or health care provider and shall place the  
 2968 individual in such system or with such health care provider.  
 2969 Prior to and during the implementation of case management, the  
 2970 plan case manager shall obtain input from the policyholder,  
 2971 parent, or guardian.

2972           Section 118. Paragraph (a) of subsection (1) of section  
 2973 627.649, Florida Statutes, is amended to read:

2974           627.649 Administrator.--

2975           (1) The board shall select an administrator, through a  
 2976 competitive bidding process, to administer the plan. The board  
 2977 shall evaluate bids submitted under this subsection based on  
 2978 criteria established by the board, which criteria shall include:





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2979 (a) The administrator's proven ability to handle large  
 2980 group accident and health insurance, and due consideration shall  
 2981 be given to any administrator who has acted as a third-party  
 2982 administrator for the state group health insurance program  
 2983 pursuant to s. 109.123 ~~110.123~~.

2984 Section 119. Paragraph (a) of subsection (2) and  
 2985 subsection (3) of section 627.6498, Florida Statutes, are  
 2986 amended to read:

2987 627.6498 Minimum benefits coverage; exclusions; premiums;  
 2988 deductibles.--

2989 (2) BENEFITS.--

2990 (a) The plan shall offer major medical expense coverage  
 2991 similar to that provided by the state group health insurance  
 2992 program as defined in s. 109.123 ~~110.123~~ except as specified in  
 2993 subsection (3) to every eligible person who is not eligible for  
 2994 Medicare. Major medical expense coverage offered under the plan  
 2995 shall pay an eligible person's covered expenses, subject to  
 2996 limits on the deductible and coinsurance payments authorized  
 2997 under subsection (4), up to a lifetime limit of \$500,000 per  
 2998 covered individual. The maximum limit under this paragraph shall  
 2999 not be altered by the board, and no actuarially equivalent  
 3000 benefit may be substituted by the board.

3001 (3) COVERED EXPENSES.--The coverage to be issued by the  
 3002 association shall be patterned after the state group health  
 3003 insurance program as defined in s. 109.123 ~~110.123~~, including  
 3004 its benefits, exclusions, and other limitations, except as  
 3005 otherwise provided in this act. The plan may cover the cost of  
 3006 experimental drugs which have been approved for use by the Food  
 3007 and Drug Administration on an experimental basis if the cost is



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3008 less than the usual and customary treatment. Such coverage shall  
 3009 only apply to those insureds who are in the case management  
 3010 system upon the approval of the insured, the case manager, and  
 3011 the board.

3012 Section 120. Paragraph (a) of subsection (2) of section  
 3013 456.048, Florida Statutes, is amended to read:

3014 456.048 Financial responsibility requirements for certain  
 3015 health care practitioners.--

3016 (2) The board or department may grant exemptions upon  
 3017 application by practitioners meeting any of the following  
 3018 criteria:

3019 (a) Any person licensed under chapter 457, chapter 460,  
 3020 chapter 461, s. 464.012, chapter 466, or chapter 467 who  
 3021 practices exclusively as an officer, employee, or agent of the  
 3022 Federal Government or of the state or its agencies or its  
 3023 subdivisions. For the purposes of this subsection, an agent of  
 3024 the state, its agencies, or its subdivisions is a person who is  
 3025 eligible for coverage under any self-insurance or insurance  
 3026 program authorized by the provisions of s. 768.28(15) or who is  
 3027 a volunteer under s. 109.501(1) ~~110.501(1)~~.

3028 Section 121. Subsection (3) of section 655.019, Florida  
 3029 Statutes, is amended to read:

3030 655.019 Campaign contributions; limitations.--

3031 (3) No employee of the department may solicit a campaign  
 3032 contribution for the Comptroller or any candidate for the office  
 3033 of the Comptroller from any person who is licensed or otherwise  
 3034 authorized to do business by the department or who has an  
 3035 application pending for licensure or other authorization to do  
 3036 business pending with the department, or any director, officer,



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3037 employee, agent, retained legal counsel, lobbyist, or partner or  
 3038 affiliate of that person or any political committee or committee  
 3039 of continuous existence that represents that person. For  
 3040 purposes of this section, "employee of the department" means any  
 3041 person employed in the department or the Comptroller's office  
 3042 ~~holding a position in the Senior Management Service as defined~~  
 3043 ~~in s. 110.402; any person holding a position in the Selected~~  
 3044 ~~Exempt Service as defined in s. 110.602; any person having~~  
 3045 authority over institution policy, regulation, or supervision;  
 3046 or any person hired on a contractual basis, having the power  
 3047 normally conferred upon such person, by whatever title.

3048 Section 122. Paragraph (a) of subsection (4) of section  
 3049 943.0585, Florida Statutes, is amended to read:

3050 943.0585 Court-ordered expunction of criminal history  
 3051 records.--The courts of this state have jurisdiction over their  
 3052 own procedures, including the maintenance, expunction, and  
 3053 correction of judicial records containing criminal history  
 3054 information to the extent such procedures are not inconsistent  
 3055 with the conditions, responsibilities, and duties established by  
 3056 this section. Any court of competent jurisdiction may order a  
 3057 criminal justice agency to expunge the criminal history record  
 3058 of a minor or an adult who complies with the requirements of  
 3059 this section. The court shall not order a criminal justice  
 3060 agency to expunge a criminal history record until the person  
 3061 seeking to expunge a criminal history record has applied for and  
 3062 received a certificate of eligibility for expunction pursuant to  
 3063 subsection (2). A criminal history record that relates to a  
 3064 violation of s. 787.025, chapter 794, s. 796.03, s. 800.04, s.  
 3065 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s.



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3066 847.0135, s. 847.0145, s. 893.135, or a violation enumerated in  
3067 s. 907.041 may not be expunged, without regard to whether  
3068 adjudication was withheld, if the defendant was found guilty of  
3069 or pled guilty or nolo contendere to the offense, or if the  
3070 defendant, as a minor, was found to have committed, or pled  
3071 guilty or nolo contendere to committing, the offense as a  
3072 delinquent act. The court may only order expunction of a  
3073 criminal history record pertaining to one arrest or one incident  
3074 of alleged criminal activity, except as provided in this  
3075 section. The court may, at its sole discretion, order the  
3076 expunction of a criminal history record pertaining to more than  
3077 one arrest if the additional arrests directly relate to the  
3078 original arrest. If the court intends to order the expunction of  
3079 records pertaining to such additional arrests, such intent must  
3080 be specified in the order. A criminal justice agency may not  
3081 expunge any record pertaining to such additional arrests if the  
3082 order to expunge does not articulate the intention of the court  
3083 to expunge a record pertaining to more than one arrest. This  
3084 section does not prevent the court from ordering the expunction  
3085 of only a portion of a criminal history record pertaining to one  
3086 arrest or one incident of alleged criminal activity.  
3087 Notwithstanding any law to the contrary, a criminal justice  
3088 agency may comply with laws, court orders, and official requests  
3089 of other jurisdictions relating to expunction, correction, or  
3090 confidential handling of criminal history records or information  
3091 derived therefrom. This section does not confer any right to the  
3092 expunction of any criminal history record, and any request for  
3093 expunction of a criminal history record may be denied at the  
3094 sole discretion of the court.



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3095 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any  
3096 criminal history record of a minor or an adult which is ordered  
3097 expunged by a court of competent jurisdiction pursuant to this  
3098 section must be physically destroyed or obliterated by any  
3099 criminal justice agency having custody of such record; except  
3100 that any criminal history record in the custody of the  
3101 department must be retained in all cases. A criminal history  
3102 record ordered expunged that is retained by the department is  
3103 confidential and exempt from the provisions of s. 119.07(1) and  
3104 s. 24(a), Art. I of the State Constitution and not available to  
3105 any person or entity except upon order of a court of competent  
3106 jurisdiction. A criminal justice agency may retain a notation  
3107 indicating compliance with an order to expunge.

3108 (a) The person who is the subject of a criminal history  
3109 record that is expunged under this section or under other  
3110 provisions of law, including former s. 893.14, former s. 901.33,  
3111 and former s. 943.058, may lawfully deny or fail to acknowledge  
3112 the arrests covered by the expunged record, except when the  
3113 subject of the record:

- 3114 1. Is a candidate for employment with a criminal justice  
3115 agency;
- 3116 2. Is a defendant in a criminal prosecution;
- 3117 3. Concurrently or subsequently petitions for relief under  
3118 this section or s. 943.059;
- 3119 4. Is a candidate for admission to The Florida Bar;
- 3120 5. Is seeking to be employed or licensed by or to contract  
3121 with the Department of Children and Family Services or the  
3122 Department of Juvenile Justice or to be employed or used by such  
3123 contractor or licensee in a sensitive position having direct



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3124 contact with children, the developmentally disabled, the aged,  
 3125 or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s.  
 3126 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s.  
 3127 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or  
 3128 chapter 400; or

3129 6. Is seeking to be employed or licensed by the Office of  
 3130 Teacher Education, Certification, Staff Development, and  
 3131 Professional Practices of the Department of Education, any  
 3132 district school board, or any local governmental entity that  
 3133 licenses child care facilities.

3134 Section 123. Paragraph (a) of subsection (4) of section  
 3135 943.059, Florida Statutes, is amended to read:

3136 943.059 Court-ordered sealing of criminal history  
 3137 records.--The courts of this state shall continue to have  
 3138 jurisdiction over their own procedures, including the  
 3139 maintenance, sealing, and correction of judicial records  
 3140 containing criminal history information to the extent such  
 3141 procedures are not inconsistent with the conditions,  
 3142 responsibilities, and duties established by this section. Any  
 3143 court of competent jurisdiction may order a criminal justice  
 3144 agency to seal the criminal history record of a minor or an  
 3145 adult who complies with the requirements of this section. The  
 3146 court shall not order a criminal justice agency to seal a  
 3147 criminal history record until the person seeking to seal a  
 3148 criminal history record has applied for and received a  
 3149 certificate of eligibility for sealing pursuant to subsection  
 3150 (2). A criminal history record that relates to a violation of s.  
 3151 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.  
 3152 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s.



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3153 847.0145, s. 893.135, or a violation enumerated in s. 907.041  
3154 may not be sealed, without regard to whether adjudication was  
3155 withheld, if the defendant was found guilty of or pled guilty or  
3156 nolo contendere to the offense, or if the defendant, as a minor,  
3157 was found to have committed or pled guilty or nolo contendere to  
3158 committing the offense as a delinquent act. The court may only  
3159 order sealing of a criminal history record pertaining to one  
3160 arrest or one incident of alleged criminal activity, except as  
3161 provided in this section. The court may, at its sole discretion,  
3162 order the sealing of a criminal history record pertaining to  
3163 more than one arrest if the additional arrests directly relate  
3164 to the original arrest. If the court intends to order the  
3165 sealing of records pertaining to such additional arrests, such  
3166 intent must be specified in the order. A criminal justice agency  
3167 may not seal any record pertaining to such additional arrests if  
3168 the order to seal does not articulate the intention of the court  
3169 to seal records pertaining to more than one arrest. This section  
3170 does not prevent the court from ordering the sealing of only a  
3171 portion of a criminal history record pertaining to one arrest or  
3172 one incident of alleged criminal activity. Notwithstanding any  
3173 law to the contrary, a criminal justice agency may comply with  
3174 laws, court orders, and official requests of other jurisdictions  
3175 relating to sealing, correction, or confidential handling of  
3176 criminal history records or information derived therefrom. This  
3177 section does not confer any right to the sealing of any criminal  
3178 history record, and any request for sealing a criminal history  
3179 record may be denied at the sole discretion of the court.

3180 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal  
3181 history record of a minor or an adult which is ordered sealed by



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3182 a court of competent jurisdiction pursuant to this section is  
 3183 confidential and exempt from the provisions of s. 119.07(1) and  
 3184 s. 24(a), Art. I of the State Constitution and is available only  
 3185 to the person who is the subject of the record, to the subject's  
 3186 attorney, to criminal justice agencies for their respective  
 3187 criminal justice purposes, or to those entities set forth in  
 3188 subparagraphs (a)1., 4., 5., and 6. for their respective  
 3189 licensing and employment purposes.

3190 (a) The subject of a criminal history record sealed under  
 3191 this section or under other provisions of law, including former  
 3192 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 3193 deny or fail to acknowledge the arrests covered by the sealed  
 3194 record, except when the subject of the record:

- 3195 1. Is a candidate for employment with a criminal justice  
 3196 agency;
- 3197 2. Is a defendant in a criminal prosecution;
- 3198 3. Concurrently or subsequently petitions for relief under  
 3199 this section or s. 943.0585;
- 3200 4. Is a candidate for admission to The Florida Bar;
- 3201 5. Is seeking to be employed or licensed by or to contract  
 3202 with the Department of Children and Family Services or the  
 3203 Department of Juvenile Justice or to be employed or used by such  
 3204 contractor or licensee in a sensitive position having direct  
 3205 contact with children, the developmentally disabled, the aged,  
 3206 or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s.  
 3207 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s.  
 3208 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s.  
 3209 985.407, or chapter 400; or





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3210 6. Is seeking to be employed or licensed by the Office of  
 3211 Teacher Education, Certification, Staff Development, and  
 3212 Professional Practices of the Department of Education, any  
 3213 district school board, or any local governmental entity which  
 3214 licenses child care facilities.

3215 Section 124. Subsection (4) of section 943.22, Florida  
 3216 Statutes, is amended to read:

3217 943.22 Salary incentive program for full-time officers.--

3218 ~~(4) No individual filling a position in the Senior~~  
 3219 ~~Management Service as defined in s. 110.402 is eligible to~~  
 3220 ~~participate in the salary incentive program authorized by this~~  
 3221 ~~section.~~

3222 Section 125. Paragraph (d) of subsection (4) of section  
 3223 943.61, Florida Statutes, is amended to read:

3224 943.61 Powers and duties of the Capitol Police.--

3225 (4) The Capitol Police shall have the following powers and  
 3226 duties:

3227 (d) To employ officers who hold certification as law  
 3228 enforcement officers in accordance with the minimum standards  
 3229 and qualifications as set forth in s. 943.13 and the provisions  
 3230 of chapter 109 ~~110~~, and who have the authority to bear arms,  
 3231 make arrests, except as may be limited in the security plans  
 3232 established under paragraph (a), and apply for arrest warrants.

3233 Section 126. Paragraph (c) of subsection (3) of section  
 3234 944.35, Florida Statutes, is amended to read:

3235 944.35 Authorized use of force; malicious battery and  
 3236 sexual misconduct prohibited; reporting required; penalties.--

3237 (3)



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3238 (c) Notwithstanding prosecution, any violation of the  
 3239 provisions of this subsection, as determined by the Public  
 3240 Employees Relations Commission, shall constitute sufficient  
 3241 cause under s. 109.227 ~~110.227~~ for dismissal from employment  
 3242 with the department, and such person shall not again be employed  
 3243 in any capacity in connection with the correctional system.

3244 Section 127. Subsection (2) of section 945.043, Florida  
 3245 Statutes, is amended to read:

3246 945.043 Department-operated day care services.--

3247 (2) The department is exempt from the requirements of s.  
 3248 109.151 ~~110.151~~.

3249 Section 128. Subsection (1) of section 946.525, Florida  
 3250 Statutes, is amended to read:

3251 946.525 Participation by the corporation in the state  
 3252 group health insurance and prescription drug programs.--

3253 (1) The board of directors of the corporation established  
 3254 under this part may apply for participation in the state group  
 3255 health insurance program authorized in s. 109.123 ~~110.123~~ and  
 3256 the prescription drug coverage program authorized by s.  
 3257 109.12315 ~~110.12315~~ by submitting an application along with a  
 3258 \$500 nonrefundable fee to the Department of Management Services.

3259 Section 129. Subsection (6) of section 957.03, Florida  
 3260 Statutes, is amended to read:

3261 957.03 Correctional Privatization Commission.--

3262 (6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.--The  
 3263 commission shall be a separate budget entity, and the executive  
 3264 director shall be its chief administrative officer. The  
 3265 Department of Management Services shall provide administrative  
 3266 support and service to the commission to the extent requested by



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3267 the executive director. The commission and its staff are not  
 3268 subject to control, supervision, or direction by the Department  
 3269 of Management Services in any manner, including, but not limited  
 3270 to, personnel, purchasing, and budgetary matters, except to the  
 3271 extent as provided in chapters 109 ~~110~~, 216, 255, 282, and 287  
 3272 for agencies of the executive branch. The executive director may  
 3273 designate a maximum of two policymaking or managerial positions  
 3274 as being exempt from the Career Service System. ~~These two~~  
 3275 ~~positions may be provided for as members of the Senior~~  
 3276 ~~Management Service.~~

3277 Section 130. Subsection (4) of section 627.6617, Florida  
 3278 Statutes, is amended to read:

3279 627.6617 Coverage for home health care services.--

3280 (4) The provisions of this section shall not apply to a  
 3281 multiple-employer welfare arrangement as defined in s.  
 3282 624.437(1) and in the State Health Plan as provided in s.  
 3283 109.123 ~~110.123~~.

3284 Section 131. Paragraph (e) of subsection (4) of section  
 3285 985.05, Florida Statutes, is amended to read:

3286 985.05 Court records.--

3287 (4) A court record of proceedings under this part is not  
 3288 admissible in evidence in any other civil or criminal  
 3289 proceeding, except that:

3290 (e) Records of proceedings under this part may be used to  
 3291 prove disqualification pursuant to ss. 109.1127 ~~110.1127~~,  
 3292 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176,  
 3293 and 985.407.

3294 Section 132. Paragraph (b) of subsection (1) of section  
 3295 985.4045, Florida Statutes, is amended to read:



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3296 985.4045 Sexual misconduct prohibited; reporting required;  
 3297 penalties.--

3298 (1)

3299 (b) Notwithstanding prosecution, any violation of this  
 3300 subsection, as determined by the Public Employees Relations  
 3301 Commission, constitutes sufficient cause under s. 109.227  
 3302 ~~110.227~~ for dismissal from employment with the department, and  
 3303 such person may not again be employed in any capacity in  
 3304 connection with the juvenile justice system.

3305 Section 133. Paragraph (i) is added to subsection (2) of  
 3306 section 20.22, Florida Statutes, to read:

3307 20.22 Department of Management Services.--There is created  
 3308 a Department of Management Services.

3309 (2) The following divisions and programs within the  
 3310 Department of Management Services are established:

3311 (i) Division of Human Resource Management.

3312 Section 134. The Department of Management Services shall  
 3313 coordinate the development and implementation of a transition  
 3314 plan, including any necessary statutory amendments or proposed  
 3315 rules, that supports the implementation of this act. The  
 3316 Department of Labor and Employment Security, the Public  
 3317 Employees Relations Commission, and all other state agencies  
 3318 identified by the Department of Management Services shall  
 3319 cooperate fully in developing and implementing the plan and  
 3320 shall dedicate the financial and staff resources that are  
 3321 necessary for such implementation.

3322 Section 135. (1) Until June 30, 2004, the Public  
 3323 Employees Relations Commission shall continue to exercise its



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3324 powers, duties, and functions pursuant to the authority granted  
 3325 it under the Florida Statutes 2000.

3326 (2) On and after July 1, 2004, the Public Employees  
 3327 Relations Commission shall continue to exercise its powers,  
 3328 duties, and functions pursuant to this act's amendment which  
 3329 takes effect July 1, 2004, and for those cases properly and  
 3330 timely filed with the commission after July 1, 2004, regarding  
 3331 an alleged adverse action, the commission shall continue to  
 3332 exercise its authority under the Florida Statutes 2000.

3333 (3) After June 30, 2004, the Public Employees Relations  
 3334 Commission shall be responsible for maintaining labor relations  
 3335 issues and all career service appeal processes shall be the  
 3336 responsibility of the Division of Human Resource Management of  
 3337 the Department of Management Services.

3338 Section 136. Effective July 1, 2003, there is appropriated  
 3339 for the 2003-2004 fiscal year \$400,000 from the General Revenue  
 3340 Fund to the Division of Human Resource Management of the  
 3341 Department of Management Services to implement the provisions of  
 3342 this act.

3343 Section 137. After July 1, 2003, the Executive Office of  
 3344 the Governor shall process a budget amendment, or budget  
 3345 amendments, subject to legislative notice and review under s.  
 3346 216.177, Florida Statutes, to transfer records, property, and  
 3347 unexpended balances of appropriations, allocations, or other  
 3348 funds of the Public Employees Relations Commission within the  
 3349 Department of Labor and Employment Security to the Division of  
 3350 Human Resource Management of the Department of Management  
 3351 Services. Such budget authority, resources, and personnel at the  
 3352 Public Employees Relations Commission to finalize existing cases



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3353 under review and phase out the operation of the commission. All  
3354 existing cases and phase-out activities at the Public Employees  
3355 Relations Commission shall be concluded by June 30, 2003.

3356 Section 138. On or before October 1, 2003, the Department  
3357 of Management Services shall adopt, amend, or repeal rules as  
3358 necessary to effectuate the provisions of chapter 109, Florida  
3359 Statutes, as created by this act and in accordance with  
3360 authority granted to the department in chapter 109, Florida  
3361 Statutes.

3362 Section 139. Except as otherwise provided herein, this act  
3363 shall take effect upon becoming a law.