

HB 5603

2010

1                   A bill to be entitled  
2           An act relating to the Department of Financial Services;  
3           amending s. 17.04, F.S.; authorizing the Division of  
4           Insurance Fraud and the Office of Fiscal Integrity to  
5           conduct certain enforcement investigations; amending s.  
6           20.121, F.S.; transferring the Office of Fiscal Integrity  
7           of the Division of Accounting and Auditing of the  
8           Department of Financial Services to the department's  
9           Division of Insurance Fraud; amending ss. 284.01 and  
10          284.36, F.S.; revising criteria for premiums charged to  
11          agencies and departments for purposes of the State Risk  
12          Management Trust Fund; amending s. 284.42, F.S.; revising  
13          reporting requirements on the state insurance program;  
14          requiring the Division of Risk Management to analyze and  
15          report on certain agency return-to-work programs and  
16          activities; amending s. 284.50, F.S.; requiring certain  
17          agencies to establish and maintain return-to-work programs  
18          for certain employees; providing program goals; providing  
19          construction; requiring the Division of Risk Management to  
20          evaluate agency risk management programs; requiring  
21          reports; requiring agencies to respond to the division's  
22          evaluation and recommendations; requiring the division to  
23          submit the evaluation report to the legislative  
24          appropriations committees; amending s. 440.50, F.S.;  
25          providing for reversion of certain unencumbered and  
26          undisbursed funds to the Workers' Compensation  
27          Administration Trust Fund; providing an effective date.  
28

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

30  
 31 Section 1. Section 17.04, Florida Statutes, is amended to  
 32 read:

33 17.04 To audit and adjust accounts of officers and those  
 34 indebted to the state.—The Chief Financial Officer, using  
 35 generally accepted auditing procedures for testing or sampling,  
 36 shall examine, audit, adjust, and settle the accounts of all the  
 37 officers of this state, and any other person in anywise  
 38 entrusted with, or who may have received any property, funds, or  
 39 moneys of this state, or who may be in anywise indebted or  
 40 accountable to this state for any property, funds, or moneys,  
 41 and require such officer or persons to render full accounts  
 42 thereof, and to yield up such property or funds according to  
 43 law, or pay such moneys into the treasury of this state, or to  
 44 such officer or agent of the state as may be appointed to  
 45 receive the same, and on failure so to do, to cause to be  
 46 instituted and prosecuted proceedings, criminal or civil, at law  
 47 or in equity, against such persons, according to law. The  
 48 Division of Accounting and Auditing and the Office of Fiscal  
 49 Integrity within the Division of Insurance Fraud may conduct  
 50 investigations within or outside of this state as it deems  
 51 necessary to aid in the enforcement of this section. If during  
 52 an investigation either ~~the~~ division or the office has reason to  
 53 believe that any criminal statute of this state has or may have  
 54 been violated, such ~~the~~ division or the office shall refer any  
 55 records tending to show such violation to state or federal law  
 56 enforcement or prosecutorial agencies and shall provide

57 | investigative assistance to those agencies as required.

58 | Section 2. Paragraphs (a) and (e) of subsection (2) of  
 59 | section 20.121, Florida Statutes, are amended to read:

60 | 20.121 Department of Financial Services.—There is created  
 61 | a Department of Financial Services.

62 | (2) DIVISIONS.—The Department of Financial Services shall  
 63 | consist of the following divisions:

64 | (a) The Division of Accounting and Auditing, which shall  
 65 | include ~~the following bureau and office:~~

66 | 1. ~~the Bureau of Unclaimed Property.~~

67 | 2. ~~The Office of Fiscal Integrity which shall function as  
 68 | a criminal justice agency for purposes of ss. 943.045-943.08 and  
 69 | shall have a separate budget. The office may conduct  
 70 | investigations within or outside this state as the bureau deems  
 71 | necessary to aid in the enforcement of this section. If during  
 72 | an investigation the office has reason to believe that any  
 73 | eriminal law of this state has or may have been violated, the  
 74 | office shall refer any records tending to show such violation to  
 75 | state or federal law enforcement or prosecutorial agencies and  
 76 | shall provide investigative assistance to those agencies as  
 77 | required.~~

78 | (e) The Division of Insurance Fraud, which shall include  
 79 | the Office of Fiscal Integrity. The office shall function as a  
 80 | criminal justice agency for purposes of ss. 943.045-943.08 and  
 81 | shall have a separate budget. The office may conduct  
 82 | investigations within or outside this state as the division  
 83 | deems necessary to aid in the enforcement of this section. If  
 84 | during an investigation the office has reason to believe that

85 any criminal law of this state has or may have been violated,  
 86 the office shall refer any records tending to show such  
 87 violation to state or federal law enforcement or prosecutorial  
 88 agencies and shall provide investigative assistance to those  
 89 agencies as required.

90 Section 3. Subsection (5) of section 284.01, Florida  
 91 Statutes, is amended to read:

92 284.01 State Risk Management Trust Fund; coverages to be  
 93 provided.—

94 (5) Premiums charged to agencies for coverage shall be  
 95 adopted ~~promulgated~~ on a retrospective rating arrangement based  
 96 upon actual losses accruing to the fund and loss prevention  
 97 results, taking into account reasonable expectations,  
 98 maintenance, and stability of the fund and cost of reinsurance.

99 Section 4. Section 284.36, Florida Statutes, is amended to  
 100 read:

101 284.36 Appropriation deposits; premium payment.—Premiums  
 102 for coverage by the State Risk Management Trust Fund as  
 103 calculated on all coverages shall be billed and charged to each  
 104 state agency according to coverages obtained by the fund for  
 105 their benefit, and such obligations shall be paid promptly by  
 106 each agency from its operating budget upon presentation of a  
 107 bill therefor. After the first year of operation, premiums to be  
 108 charged to all departments of the state are to be computed on a  
 109 retrospective rating arrangement based upon actual losses  
 110 accruing to the fund and loss prevention results, taking into  
 111 account reasonable expectations, the maintenance and stability  
 112 of the fund, and the cost of insurance.

113 Section 5. Subsection (1) of section 284.42, Florida  
 114 Statutes, is amended to read:

115 284.42 Reports on state insurance program.—

116 (1) (a) The Department of Financial Services, with the  
 117 Department of Management Services, shall conduct ~~make~~ an  
 118 analysis of the state insurance program each year and submit the  
 119 results on or before January 1 in a report to the Governor, the  
 120 President of the Senate, and the Speaker of the House of  
 121 Representatives annually, which shall include:

122 1.(a) Complete underwriting information as to the nature  
 123 of the risks accepted for self-insurance and those risks that  
 124 are transferred to the insurance market.

125 2.(b) The funds allocated to the Florida Casualty Risk  
 126 Management Trust Fund and premiums paid for insurance through  
 127 the market.

128 3.(c) The method of handling legal matters and the cost  
 129 allocated.

130 4.(d) The method and cost of handling inspection and  
 131 engineering of risks.

132 5.(e) The cost of risk management service purchased.

133 6.(f) The cost of managing the State Insurance Program by  
 134 the Department of Financial Services and the Department of  
 135 Management Services.

136 (b) Beginning January 1, 2012, the Division of Risk  
 137 Management shall include in its annual report an analysis of  
 138 agency return-to-work efforts, including, but not limited to,  
 139 agency return-to-work program performance metrics and a status  
 140 report on participating return-to-work programs. The report

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141 shall specify benchmarks, including, but not limited to, the  
142 average lost-time claims per year, per agency; the total number  
143 of lost claims; and specific agency measurable outcomes  
144 indicating the change in performance from year to year.

145 Section 6. Subsections (4) and (5) are added to section  
146 284.50, Florida Statutes, to read:

147 284.50 Loss prevention program; safety coordinators;  
148 Interagency Advisory Council on Loss Prevention; employee  
149 recognition program.—

150 (4) All agencies that are provided workers' compensation  
151 insurance coverage by the State Risk Management Trust Fund that  
152 employ more than 6,000 full-time employees shall establish and  
153 maintain return-to-work programs for employees who are receiving  
154 workers' compensation benefits. Such programs shall have the  
155 primary goal of enabling injured workers to remain at work or  
156 return to work to perform job duties within the physical or  
157 mental functional limitations and restrictions established by  
158 the workers' treating physicians. If no such limitations or  
159 restrictions are established in writing by a worker's treating  
160 physician, the worker shall be deemed to be able to fully  
161 perform the same work duties he or she performed prior to the  
162 injury.

163 (5) The Division of Risk Management shall evaluate each  
164 agency's risk management programs, including, but not limited  
165 to, return-to-work, safety, and loss prevention programs, at  
166 least once every 5 years. Reports, including, but not limited  
167 to, any recommended corrective action, resulting from such  
168 evaluations shall be provided to the head of the agency being

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169 evaluated, the Chief Financial Officer, and the Director of the  
170 Division of Risk Management. The agency head must provide to the  
171 Division of Risk Management a response to all report  
172 recommendations within 45 days and a plan to implement any  
173 corrective action to be taken as part of the response. If the  
174 agency disagrees with any final report recommendations,  
175 including, but not limited to, any recommended corrective  
176 action, or if the agency fails to implement any recommended  
177 corrective action within a reasonable time, the division shall  
178 submit the evaluation report to the legislative appropriations  
179 committees.

180 Section 7. Subsection (5) is added to section 440.50,  
181 Florida Statutes, to read:

182 440.50 Workers' Compensation Administration Trust Fund.—

183 (5) Funds appropriated by operating appropriation or  
184 nonoperating transfer from the Workers' Compensation  
185 Administration Trust Fund to the Department of Education, the  
186 Agency for Health Care Administration, the Department of  
187 Business and Professional Regulation, the Department of  
188 Management Services, the First District Court of Appeal, and the  
189 Justice Administrative Commission remaining unencumbered as of  
190 June 30 or undisbursed as of September 30 each year shall revert  
191 to the Workers' Compensation Administration Trust Fund.

192 Section 8. This act shall take effect July 1, 2010.