

By the Committee on Budget

576-03488-11

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1                                   A bill to be entitled  
2           An act relating to the Department of Financial  
3           Services; repealing ss. 17.53 and 17.556, F.S.,  
4           relating to the Chief Financial Officer's  
5           authorization to operate a personal check-cashing  
6           service or a remote financial service unit at the  
7           capitol and to employ additional persons to assist in  
8           performing such services; abolishing appropriations  
9           from the General Revenue Fund to pay the salaries of  
10          the additional employees; amending s. 20.121, F.S.;  
11          revising the duties of the Division of Consumer  
12          Services; amending ss. 284.01 and 284.36, F.S.;  
13          revising the criteria for premiums charged to agencies  
14          and departments for purposes of the State Risk  
15          Management Trust Fund; amending s. 284.42, F.S.;  
16          revising requirements for reports concerning the state  
17          insurance program; requiring the Division of Risk  
18          Management to analyze and report on certain agency  
19          return-to-work programs and activities; amending s.  
20          284.50, F.S.; requiring certain agencies to establish  
21          and maintain return-to-work programs for certain  
22          employees; providing program goals; requiring the  
23          Division of Risk Management to evaluate agency risk  
24          management programs; requiring reports; requiring  
25          agencies to respond to the division's evaluation and  
26          recommendations; requiring the division to submit  
27          certain evaluation reports to the legislative  
28          appropriations committees; amending s. 440.13, F.S.;  
29          revising requirements for determining the amount of

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30 reimbursement for repackaged or relabeled prescription  
31 medication; providing limitations; amending s. 440.50,  
32 F.S.; providing for reversion of certain unencumbered  
33 and undisbursed funds to the Workers' Compensation  
34 Administration Trust Fund; providing an effective  
35 date.

36  
37 Be It Enacted by the Legislature of the State of Florida:

38  
39 Section 1. Section 17.53, Florida Statutes, is repealed.

40 Section 2. Section 17.556, Florida Statutes, is repealed.

41 Section 3. Paragraph (h) of subsection (2) of section  
42 20.121, Florida Statutes, is amended to read:

43 20.121 Department of Financial Services.—There is created a  
44 Department of Financial Services.

45 (2) DIVISIONS.—The Department of Financial Services shall  
46 consist of the following divisions:

47 (h) The Division of Consumer Services.

48 1. The Division of Consumer Services shall perform the  
49 following functions concerning products or services regulated by  
50 the department ~~of Financial Services~~ or by ~~either office of the~~  
51 Office of Insurance Regulation ~~Financial Services Commission~~:

52 a. Receive inquiries and complaints from consumers.

53 b. Prepare and disseminate such information as the  
54 department deems appropriate to inform or assist consumers.

55 c. Provide direct assistance and advocacy for consumers who  
56 request such assistance or advocacy.

57 d. With respect to apparent or potential violations of law  
58 or applicable rules by a person or entity licensed by the

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59 department or ~~by either office of the commission~~, report such  
60 apparent or potential violations ~~violation~~ to the office or the  
61 appropriate division of the department ~~or office of the~~  
62 ~~commission~~, which may take such further action as it deems  
63 appropriate.

64 e. Designate an employee of the division as primary contact  
65 for consumers on issues relating to sinkholes.

66 2. Any person licensed or issued a certificate of authority  
67 by the department or by the Office of Insurance Regulation shall  
68 respond, in writing, to the Division of Consumer Services within  
69 20 days after receipt of a written request for information from  
70 the division concerning a consumer complaint. The response must  
71 address the issues and allegations raised in the ~~this~~ complaint.  
72 The division may, ~~in its discretion~~, impose an administrative  
73 penalty for failure to comply with this subparagraph of ~~in an~~  
74 ~~amount~~ up to \$2,500 per violation upon any entity licensed by  
75 the department or the office ~~of Insurance Regulation~~ and \$250  
76 for the first violation, \$500 for the second violation, and up  
77 to \$1,000 per violation thereafter upon any individual licensed  
78 by the department or the office ~~of Insurance Regulation~~.

79 3. The department may adopt rules to administer ~~implement~~  
80 ~~the provisions of~~ this paragraph.

81 4. The powers, duties, and responsibilities expressed or  
82 granted in this paragraph do ~~shall~~ not limit the powers, duties,  
83 and responsibilities of the Department of Financial Services,  
84 the Financial Services Commission, the Office of Insurance  
85 Regulation, or the Office of Financial Regulation set forth  
86 elsewhere in the Florida Statutes.

87 Section 4. Subsection (5) of section 284.01, Florida

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88 Statutes, is amended to read:

89 284.01 State Risk Management Trust Fund; coverages to be  
90 provided.—

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

96 Section 5. Section 284.36, Florida Statutes, is amended to  
97 read:

98 284.36 Appropriation deposits; premium payment.—Premiums  
99 for coverage by the State Risk Management Trust Fund as  
100 calculated on all coverages shall be billed and charged to each  
101 state agency according to coverages obtained by the fund for  
102 their benefit, and such obligations shall be paid promptly by  
103 each agency from its operating budget upon presentation of a  
104 bill therefor. After the first year of operation, premiums to be  
105 charged to all departments of the state are to be computed on a  
106 retrospective rating arrangement based upon actual losses  
107 accruing to the fund and loss prevention results, taking into  
108 account reasonable expectations, the maintenance and stability  
109 of the fund, and the cost of insurance.

110 Section 6. Subsection (1) of section 284.42, Florida  
111 Statutes, is amended to read:

112 284.42 Reports on state insurance program.—

113 (1) (a) The Department of Financial Services, with the  
114 Department of Management Services, shall conduct ~~make~~ an  
115 analysis of the state insurance program each year and submit the  
116 results on or before January 1 in a report to the Governor, the

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117 President of the Senate, and the Speaker of the House of  
118 Representatives annually, which shall include:

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

122 2.-(b) The funds allocated to the Florida Casualty Risk  
123 Management Trust Fund and premiums paid for insurance through  
124 the market.

125 3.-(c) The method of handling legal matters and the cost  
126 allocated.

127 4.-(d) The method and cost of handling inspection and  
128 engineering of risks.

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

130 6.-(f) The cost of managing the State Insurance Program by  
131 the Department of Financial Services and the Department of  
132 Management Services.

133 (b) Beginning January 1, 2013, the Division of Risk  
134 Management shall include in its annual report an analysis of  
135 agency return-to-work efforts, including, but not limited to,  
136 agency return-to-work program performance metrics and a status  
137 report on participating return-to-work programs. The report  
138 shall specify benchmarks, including, but not limited to, the  
139 average lost-time claims per year, per agency; the total number  
140 of lost claims; and specific agency measurable outcomes  
141 indicating the change in performance from year to year.

142 Section 7. Subsections (3) and (4) are added to section  
143 284.50, Florida Statutes, to read:

144 284.50 Loss prevention program; safety coordinators;  
145 Interagency Advisory Council on Loss Prevention; employee

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146 recognition program.—

147 (3) All agencies that are provided workers' compensation  
148 insurance coverage by the State Risk Management Trust Fund and  
149 that employ more than 3,000 full-time employees shall establish  
150 and maintain return-to-work programs for employees who are  
151 receiving workers' compensation benefits. The programs shall  
152 have the primary goal of enabling injured workers to remain at  
153 work or return to work to perform job duties within the physical  
154 or mental functional limitations and restrictions established by  
155 the workers' treating physicians. If no limitation or  
156 restriction is established in writing by a worker's treating  
157 physician, the worker shall be deemed to be able to fully  
158 perform the same work duties he or she performed before the  
159 injury.

160 (4) The Division of Risk Management shall evaluate each  
161 agency's risk management programs, including, but not limited  
162 to, return-to-work, safety, and loss prevention programs, at  
163 least once every 5 years. Reports, including, but not limited  
164 to, any recommended corrective action, resulting from such  
165 evaluations shall be provided to the head of the agency being  
166 evaluated, the Chief Financial Officer, and the director of the  
167 Division of Risk Management. The agency head must provide to the  
168 Division of Risk Management a response to all report  
169 recommendations within 45 days and a plan to implement any  
170 corrective action to be taken as part of the response. If the  
171 agency disagrees with any final report recommendations,  
172 including, but not limited to, any recommended corrective  
173 action, or if the agency fails to implement any recommended  
174 corrective action within a reasonable time, the division shall

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175 submit the evaluation report to the legislative appropriations  
176 committees.

177 Section 8. Paragraph (c) of subsection (12) of section  
178 440.13, Florida Statutes, is amended to read:

179 440.13 Medical services and supplies; penalty for  
180 violations; limitations.—

181 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM  
182 REIMBURSEMENT ALLOWANCES.—

183 (c) As to reimbursement for a prescription medication,  
184 regardless of the location or provider from which the claimant  
185 receives the prescription medication, the reimbursement amount  
186 for a prescription shall be the average wholesale price plus  
187 \$4.18 or as provided in s. 110.12315(2)(c), whichever is lower,  
188 for the dispensing fee, unless ~~except where~~ the carrier has  
189 contracted for a lower amount. The reimbursement amount for a  
190 drug that has been repackaged or relabeled shall be calculated  
191 by multiplying the number of units dispensed times the per-unit  
192 average wholesale price set by the original manufacturer of the  
193 underlying drug, which may not be the manufacturer of the  
194 repackaged or relabeled drug, plus \$4.18 or as provided in s.  
195 110.12315(2)(c), whichever is lower, for a dispensing fee,  
196 unless the carrier has contracted for a lower amount. The  
197 repackaged or relabeled drug price may not exceed the amount  
198 otherwise payable had the drug not been repackaged or relabeled.  
199 Fees for pharmaceuticals and pharmaceutical services shall be  
200 reimbursable at the applicable fee schedule amount. Where the  
201 employer or carrier has contracted for such services and the  
202 employee elects to obtain them through a provider not a party to  
203 the contract, the carrier shall reimburse at the schedule,

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204 negotiated, or contract price, whichever is lower. No such  
205 contract shall rely on a provider that is not reasonably  
206 accessible to the employee.

207 Section 9. Subsection (5) is added to section 440.50,  
208 Florida Statutes, to read:

209 440.50 Workers' Compensation Administration Trust Fund.—

210 (5) Funds appropriated by an operating appropriation or a  
211 nonoperating transfer from the Workers' Compensation  
212 Administration Trust Fund to the Department of Education, the  
213 Agency for Health Care Administration, the Department of  
214 Business and Professional Regulation, the Department of  
215 Management Services, the First District Court of Appeal, and the  
216 Justice Administrative Commission remaining unencumbered as of  
217 June 30 or undisbursed as of September 30 each year shall revert  
218 to the Workers' Compensation Administration Trust Fund.

219 Section 10. This act shall take effect July 1, 2011.