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1 A bill to be entitled
2 An act relating to the Department of Financial Services;
3 amending s. 20.121, F.S.; revising duties of the Division
4 of Consumer Services; amending ss. 284.01 and 284.36,
5 F.S.; revising criteria for premiums charged to agencies
6 and departments for purposes of the State Risk Management
7 Trust Fund; amending s. 284.42, F.S.; revising reporting
8 requirements on the state insurance program; requiring the
9 Division of Risk Management to analyze and report on
10 certain agency return-to-work programs and activities;
11 amending s. 284.50, F.S.; requiring certain agencies to
12 establish and maintain return-to-work programs for certain
13 employees; providing program goals; requiring the Division
14 of Risk Management to evaluate agency risk management
15 programs; requiring reports; requiring agencies to respond
16 to the division's evaluation and recommendations;
17 requiring the division to submit a report of an evaluation
18 to the appropriations committees of the Legislature under
19 certain circumstances; amending s. 440.50, F.S.; providing
20 for reversion of certain unencumbered and undisbursed
21 funds to the Workers' Compensation Administration Trust
22 Fund; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Paragraph (h) of subsection (2) of section
27 20.121, Florida Statutes, is amended to read:

28 20.121 Department of Financial Services.—There is created

29 a Department of Financial Services.

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

32 (h) The Division of Consumer Services.

33 1. The Division of Consumer Services shall perform the
 34 following functions concerning products or services regulated by
 35 the department ~~of Financial Services~~ or by ~~either office of the~~
 36 Office of Insurance Regulation ~~Financial Services Commission~~:

37 a. Receive inquiries and complaints from consumers.

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

40 c. Provide direct assistance and advocacy for consumers
 41 who request such assistance or advocacy.

42 d. With respect to apparent or potential violations of law
 43 or applicable rules by a person or entity licensed by the
 44 department or office ~~by either office of the commission~~, report
 45 ~~such~~ apparent or potential violations ~~violation~~ to the office or
 46 the appropriate division of the department ~~or office of the~~
 47 ~~commission~~, which may take such further action as it deems
 48 appropriate.

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

51 2. Any person licensed or issued a certificate of
 52 authority by the department or by the Office of Insurance
 53 Regulation shall respond, in writing, to the Division of
 54 Consumer Services within 20 days after receipt of a written
 55 request for information from the division concerning a consumer
 56 complaint. The response must address the issues and allegations

57 raised in the ~~this~~ complaint. The division may, ~~in its~~
 58 ~~discretion~~, impose an administrative penalty for failure to
 59 comply with this subparagraph of ~~in an amount~~ up to \$2,500 per
 60 violation upon any entity licensed by the department or the
 61 office ~~of Insurance Regulation~~ and \$250 for the first violation,
 62 \$500 for the second violation, and up to \$1,000 per violation
 63 thereafter upon any individual licensed by the department or the
 64 office ~~of Insurance Regulation~~.

65 3. The department may adopt rules to implement the
 66 provisions of this paragraph.

67 4. The powers, duties, and responsibilities expressed or
 68 granted in this paragraph do ~~shall~~ not limit the powers, duties,
 69 and responsibilities of the department ~~of Financial Services~~,
 70 the Financial Services Commission, the Office of Insurance
 71 Regulation, or the Office of Financial Regulation set forth
 72 elsewhere in the Florida Statutes.

73 Section 2. Subsection (5) of section 284.01, Florida
 74 Statutes, is amended to read:

75 284.01 State Risk Management Trust Fund; coverages to be
 76 provided.—

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

82 Section 3. Section 284.36, Florida Statutes, is amended to
 83 read:

84 284.36 Appropriation deposits; premium payment.—Premiums
 85 for coverage by the State Risk Management Trust Fund as
 86 calculated on all coverages shall be billed and charged to each
 87 state agency according to coverages obtained by the fund for
 88 their benefit, and such obligations shall be paid promptly by
 89 each agency from its operating budget upon presentation of a
 90 bill therefor. After the first year of operation, premiums to be
 91 charged to all departments of the state are to be computed on a
 92 retrospective rating arrangement based upon actual losses
 93 accruing to the fund and loss prevention results, taking into
 94 account reasonable expectations, the maintenance and stability
 95 of the fund, and the cost of insurance.

96 Section 4. Subsection (1) of section 284.42, Florida
 97 Statutes, is amended to read:

98 284.42 Reports on state insurance program.—

99 (1) (a) The Department of Financial Services, with the
 100 Department of Management Services, shall conduct ~~make~~ an
 101 analysis of the state insurance program each year and, on or
 102 before January 1, submit a report containing the results of the
 103 analysis to the Governor, the President of the Senate, and the
 104 Speaker of the House of Representatives ~~annually~~, which shall
 105 include:

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

109 2.(b) The funds allocated to the Florida Casualty Risk
 110 Management Trust Fund and premiums paid for insurance through
 111 the market.

112 ~~3.(e)~~ The method of handling legal matters and the cost
 113 allocated.

114 ~~4.(d)~~ The method and cost of handling inspection and
 115 engineering of risks.

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

117 ~~6.(f)~~ The cost of managing the State Insurance Program by
 118 the Department of Financial Services and the Department of
 119 Management Services.

120 (b) Beginning January 1, 2013, the Division of Risk
 121 Management must include in its annual report an analysis of
 122 agency return-to-work efforts, including, but not limited to,
 123 agency return-to-work program performance metrics and a status
 124 report on participating return-to-work programs. The report must
 125 specify benchmarks, including, but not limited to, the average
 126 lost-time claims per year for each agency; the total number of
 127 lost claims; and specific agency measurable outcomes indicating
 128 the change in performance from year to year.

129 Section 5. Subsections (3) and (4) are added to section
 130 284.50, Florida Statutes, to read:

131 284.50 Loss prevention program; safety coordinators;
 132 Interagency Advisory Council on Loss Prevention; employee
 133 recognition program.—

134 (3) The Department of Financial Services and all agencies
 135 that employ more than 3,500 full-time employees and are provided
 136 workers' compensation insurance coverage by the State Risk
 137 Management Trust Fund shall establish and maintain return-to-
 138 work programs for employees who are receiving workers'
 139 compensation benefits. The primary goal of such programs is to

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140 enable injured workers to remain at work or return to work to
141 perform job duties within the physical or mental functional
142 limitations and restrictions established by the workers'
143 treating physicians. If limitations or restrictions are not
144 established in writing by a worker's treating physician, the
145 worker is deemed fully able to perform the same work duties he
146 or she performed before the injury.

147 (4) The Division of Risk Management must evaluate each
148 agency's risk management programs, including, but not limited
149 to, return-to-work, safety, and loss prevention programs, at
150 least once every 5 years. A report, including, but not limited
151 to, any recommended corrective action, that results from an
152 evaluation must be provided to the head of the agency being
153 evaluated, the Chief Financial Officer, and the Director of the
154 Division of Risk Management. The agency head must provide to the
155 Division of Risk Management a response to all recommendations in
156 the report within 45 days after receipt of the report and a plan
157 for implementing any corrective action the agency intends to
158 take in response to the report. If the agency disagrees with any
159 final recommendations in the report, including, but not limited
160 to, any recommended corrective action or the agency fails to
161 implement any recommended corrective action within a reasonable
162 time, the division must submit a report of the evaluation to the
163 appropriations committees of the Legislature.

164 Section 6. Subsection (5) is added to section 440.50,
165 Florida Statutes, to read:

166 440.50 Workers' Compensation Administration Trust Fund.—

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167 (5) Funds appropriated by operating appropriation or
168 nonoperating transfer from the Workers' Compensation
169 Administration Trust Fund to the Department of Education, the
170 Agency for Health Care Administration, the Department of
171 Business and Professional Regulation, the Department of
172 Management Services, the First District Court of Appeal, and the
173 Justice Administrative Commission remaining unencumbered on June
174 30 or undisbursed on September 30 each year revert to the
175 Workers' Compensation Administration Trust Fund.

176 Section 7. This act shall take effect July 1, 2011.