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1                   A bill to be entitled  
2           An act relating to state reciprocity in workers'  
3           compensation claims; amending s. 440.09, F.S.; providing  
4           extraterritorial coverage; exempting certain employees  
5           working in this state and the employers of such employees  
6           from the Workers' Compensation Law of this state under  
7           certain conditions; providing requirements for the  
8           establishment of prima facie evidence that the employer  
9           carries certain workers' compensation insurance; requiring  
10          courts to take judicial notice of the construction of  
11          certain laws; authorizing the Division of Workers'  
12          Compensation to enter into agreements with the workers'  
13          compensation agencies of other states for certain  
14          purposes; providing requirements for claims made in other  
15          states; providing criteria for employees to be considered  
16          temporarily in a state; providing application; providing  
17          an effective date.

18  
19   Be It Enacted by the Legislature of the State of Florida:

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21           Section 1. Paragraph (e) is added to subsection (1) of  
22           section 440.09, Florida Statutes, to read:

23           440.09 Coverage.—

24           (1) The employer must pay compensation or furnish benefits  
25           required by this chapter if the employee suffers an accidental  
26           compensable injury or death arising out of work performed in the  
27           course and the scope of employment. The injury, its occupational  
28           cause, and any resulting manifestations or disability must be

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29 | established to a reasonable degree of medical certainty, based  
30 | on objective relevant medical findings, and the accidental  
31 | compensable injury must be the major contributing cause of any  
32 | resulting injuries. For purposes of this section, "major  
33 | contributing cause" means the cause which is more than 50  
34 | percent responsible for the injury as compared to all other  
35 | causes combined for which treatment or benefits are sought. In  
36 | cases involving occupational disease or repetitive exposure,  
37 | both causation and sufficient exposure to support causation must  
38 | be proven by clear and convincing evidence. Pain or other  
39 | subjective complaints alone, in the absence of objective  
40 | relevant medical findings, are not compensable. For purposes of  
41 | this section, "objective relevant medical findings" are those  
42 | objective findings that correlate to the subjective complaints  
43 | of the injured employee and are confirmed by physical  
44 | examination findings or diagnostic testing. Establishment of the  
45 | causal relationship between a compensable accident and injuries  
46 | for conditions that are not readily observable must be by  
47 | medical evidence only, as demonstrated by physical examination  
48 | findings or diagnostic testing. Major contributing cause must be  
49 | demonstrated by medical evidence only.

50 | (e)1. If an employee in this state subject to this chapter  
51 | temporarily leaves the state incidental to his or her employment  
52 | and receives an accidental injury arising out of and in the  
53 | course of employment, the employee, or beneficiaries of the  
54 | employee if the injury results in death, is entitled to the  
55 | benefits of this chapter as if the employee were injured within  
56 | this state.

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57 2. An employee from another state and the employer of the  
58 employee in the other state are exempt from this chapter while  
59 the employee is temporarily in this state doing work for the  
60 employer if:

61 a. The employer has furnished workers' compensation  
62 insurance coverage under the workers' compensation insurance or  
63 similar laws of the other state to cover the employee's  
64 employment while in this state;

65 b. The extraterritorial provisions of this chapter are  
66 recognized in the other state; and

67 c. Employees and employers who are covered in this state  
68 are likewise exempted from the application of the workers'  
69 compensation insurance or similar laws of the other state.

70 3. The benefits under the workers' compensation insurance  
71 or similar laws of the other state, or other remedies under  
72 similar law, are the exclusive remedy against the employer for  
73 any injury, whether resulting in death or not, received by the  
74 employee while temporarily working for that employer in this  
75 state.

76 4. A certificate from the duly authorized officer of the  
77 department or similar department of another state certifying  
78 that the employer of the other state is insured in that state  
79 and has provided extraterritorial coverage insuring employees  
80 while working in this state is prima facie evidence that the  
81 employer carries that workers' compensation insurance.

82 5. Whenever in any appeal or other litigation the  
83 construction of the laws of another jurisdiction is required,  
84 the courts shall take judicial notice of such construction of

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85 the laws of the other jurisdiction.

86 6. The division may enter into an agreement with the  
87 workers' compensation agency of any other state relating to  
88 conflicts of jurisdiction where the contract of employment is in  
89 one state and the injuries occur in the other state, or where  
90 there is a dispute as to the boundaries or jurisdiction of the  
91 states; and, when such an agreement has been executed and made  
92 public by the respective state agencies, the rights of employees  
93 hired in the other state and injured while temporarily in this  
94 state, or hired in this state and injured while temporarily in  
95 the other state, or where the jurisdiction is otherwise  
96 uncertain, shall be determined pursuant to such agreement and  
97 confined to the jurisdiction provided in the agreement.

98 7. When an employee has a claim under the workers'  
99 compensation law of another state, territory, province, or  
100 foreign nation for the same injury or occupational disease as  
101 the claim filed in this state, the total amount of compensation  
102 paid or awarded under such other workers' compensation law shall  
103 be credited against the compensation due under the Florida  
104 Workers' Compensation Law. The employee is entitled to the full  
105 amount of compensation due under the Florida Workers'  
106 Compensation Law. If compensation under the Florida Workers'  
107 Compensation Law is more than the compensation under another  
108 law, or compensation paid to the employee under another law is  
109 recovered from the employee, the insurer shall pay any unpaid  
110 compensation to the employee up to the amount required by the  
111 claim under the Florida Workers' Compensation Law.

112 8. For purposes of this paragraph, an employee is

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113 considered to be temporarily in a state doing work for an  
114 employer if the employee is working for his employer in a state  
115 other than the state where he or she is primarily employed, for  
116 no more than 10 consecutive days, or no more than 25 total days,  
117 during a calendar year.

118 9. This paragraph applies to any claim made on or after  
119 July 1, 2011, regardless of the date of the accident.

120 Section 2. This act shall take effect July 1, 2011.