

HB 1261

2012

1                   A bill to be entitled  
2           An act relating to state employment; providing  
3           directives to the Division of Statutory Revision;  
4           amending s. 110.105, F.S.; revising provisions  
5           relating to the employment policy of the state;  
6           transferring, renumbering, and amending s. 110.107,  
7           F.S.; revising and providing definitions; amending s.  
8           110.1055, F.S.; revising the rulemaking authority of  
9           the Department of Management Services; creating s.  
10          110.1056, F.S.; providing for agency audits to  
11          determine compliance with laws and rules;  
12          transferring, renumbering, and amending s. 110.405,  
13          F.S.; revising provisions relating to the appointment  
14          of ad hoc advisory committees; creating s. 110.1065,  
15          F.S.; providing employment policies and requirements  
16          of the State Personnel System; authorizing the  
17          department to adopt rules; transferring, renumbering,  
18          and amending s. 110.233, F.S.; conforming provisions  
19          to changes made by the act; revising discrimination  
20          provisions; authorizing the department to adopt rules;  
21          amending s. 110.1099, F.S.; revising provisions  
22          relating to educational opportunities for employees;  
23          transferring, renumbering, and amending s. 110.235,  
24          F.S.; revising provisions relating to training  
25          employees; authorizing the department to adopt rules;  
26          amending s. 110.112, F.S.; revising provisions  
27          relating to equal employment opportunity;  
28          transferring, renumbering, and amending s. 110.1127,

Page 1 of 220

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1261-00

29 F.S.; revising provisions relating to background  
 30 screening; authorizing the department to adopt rules;  
 31 transferring, renumbering, and amending s. 110.113,  
 32 F.S.; revising provisions relating to pay periods;  
 33 authorizing the department to adopt rules; creating s.  
 34 110.1135, F.S.; requiring state agencies to keep  
 35 accurate records of attendance and leave; amending s.  
 36 110.116, F.S.; revising and providing requirements  
 37 relating to maintaining human resource information;  
 38 authorizing the department to adopt rules;  
 39 transferring, renumbering, and amending s. 110.117,  
 40 F.S.; revising provisions relating to an employee's  
 41 personal holiday; amending s. 110.1245, F.S.; revising  
 42 provisions relating to bonuses and other awards;  
 43 authorizing the department to adopt rules; amending s.  
 44 110.125, F.S.; revising provisions relating to paying  
 45 for the administrative costs for operating a personnel  
 46 system; authorizing the department to adopt rules;  
 47 amending s. 110.126, F.S.; revising provisions  
 48 relating to the department's authority to compel  
 49 production of certain materials; providing penalties;  
 50 authorizing the department to adopt rules; amending s.  
 51 110.127, F.S.; revising provisions relating to  
 52 penalties; authorizing the department to adopt rules;  
 53 transferring, renumbering, and amending s. 110.1315,  
 54 F.S.; requiring the Department of Financial Services  
 55 to provide an alternative retirement income security  
 56 program for eligible temporary and seasonal employees;

57 | authorizing the Department of Financial Services to  
58 | adopt rules relating to other-personal-services  
59 | employee benefits; transferring, renumbering, and  
60 | amending s. 110.171, F.S.; revising provisions  
61 | relating to telecommuting; providing a telework  
62 | program; providing requirements; authorizing certain  
63 | agencies to adopt rules; transferring, renumbering,  
64 | and amending s. 110.2037, F.S.; revising provisions  
65 | relating to alternative benefits; authorizing the  
66 | Department of Management Services to adopt rules;  
67 | creating s. 110.183, F.S.; providing requirements  
68 | relating to collective bargaining; creating s.  
69 | 110.184, F.S.; requiring the department to submit an  
70 | annual workforce report to the Governor and  
71 | Legislature; creating s. 110.202, F.S.; providing a  
72 | declaration of policy with respect to the  
73 | establishment of the Civil Service; amending s.  
74 | 110.205, F.S.; revising provisions relating to the  
75 | list of positions that are exempted from the Civil  
76 | Service; authorizing the department to adopt rules;  
77 | creating s. 110.208, F.S.; providing for a uniform  
78 | classification system for civil service positions;  
79 | providing powers and duties of the department;  
80 | creating s. 110.2085, F.S.; providing for a pay plan  
81 | for civil service positions; providing powers and  
82 | duties of the department; authorizing the department  
83 | to adopt rules; amending s. 110.211, F.S.; revising  
84 | provisions relating to recruitment; authorizing the

HB 1261

2012

85 | department to adopt rules; amending s. 110.213, F.S.;  
86 | revising provisions relating to selecting a candidate  
87 | for employment; authorizing the department to adopt  
88 | rules; amending s. 110.2135, F.S.; revising provisions  
89 | relating to veterans' preference; authorizing the  
90 | department to adopt rules; amending s. 110.215, F.S.;  
91 | revising provisions relating to employing persons with  
92 | disabilities; authorizing the department to adopt  
93 | rules; amending s. 110.217, F.S.; revising and  
94 | providing requirements relating to a change in an  
95 | employee's position status; amending s. 110.219, F.S.;  
96 | revising provisions relating to attendance and leave  
97 | policies; amending s. 110.224, F.S.; revising  
98 | provisions relating to employee evaluation; amending  
99 | s. 110.227, F.S.; revising provisions relating to  
100 | employee grievances; authorizing the department to  
101 | adopt rules; transferring, renumbering, and amending  
102 | s. 110.601, F.S.; revising provisions relating to  
103 | selected exempt service policy; transferring,  
104 | renumbering, and amending s. 110.602, F.S.; revising  
105 | provisions relating to the creation of the Selected  
106 | Exempt Service; transferring, renumbering, and  
107 | amending s. 110.605, F.S.; revising provisions  
108 | relating to the powers and duties of the department;  
109 | creating s. 110.3023, F.S.; providing for the  
110 | recruitment of selected exempt service staff;  
111 | authorizing and providing requirements for contracts  
112 | for recruitment; amending s. 110.401, F.S.; revising

HB 1261

2012

113 provisions relating to policies for senior management  
114 service employees; amending s. 110.402, F.S.; revising  
115 provisions relating to the creation of the Senior  
116 Management Service; amending s. 110.403, F.S.;  
117 revising duties of the department with respect to the  
118 Senior Management Service; creating s. 110.4035, F.S.;  
119 providing for the recruitment of senior management  
120 service staff; authorizing and providing requirements  
121 for contracts for recruitment; creating s. 112.906,  
122 F.S.; providing definitions; transferring,  
123 renumbering, and amending s. 110.131, F.S.; revising  
124 provisions relating to other-personal-service  
125 employment; authorizing certain agencies to adopt  
126 rules; transferring and renumbering s. 110.1128, F.S.,  
127 relating to selective service registration;  
128 transferring, renumbering, and amending s. 110.1221,  
129 F.S.; authorizing certain agencies to adopt rules  
130 relating to the state sexual harassment policy;  
131 creating s. 112.9095, F.S.; providing for  
132 nondiscrimination in employment; creating s. 112.9096,  
133 F.S.; requiring the head of each executive agency to  
134 develop and implement an affirmative action plan;  
135 requiring such agencies to establish annual goals;  
136 requiring certain agencies to submit an annual report  
137 to the Governor; requiring each state attorney and  
138 public defender to develop and implement an  
139 affirmative action plan; providing requirements of the  
140 plan; providing grievance complaint procedures;

141 transferring, renumbering, and amending s. 110.122,  
142 F.S.; revising provisions relating to annual and sick  
143 leave; providing that annual leave earned after a  
144 specified date may not be carried over to the next  
145 calendar year; providing an exception; providing  
146 conditions under which an employee is eligible for  
147 terminal pay for accumulated and unused annual and  
148 sick leave; providing that terminal pay allowable for  
149 unused annual leave shall not exceed a specified  
150 number of hours of actual payment; transferring,  
151 renumbering, and amending s. 110.121, F.S.; revising  
152 provisions relating to the sick leave pool;  
153 transferring, renumbering, and amending s. 110.119,  
154 F.S.; revising provisions relating to administrative  
155 leave for a service-connected disability;  
156 transferring, renumbering, and amending ss. 110.120  
157 and 110.1091, F.S.; conforming provisions to changes  
158 made by the act; transferring, renumbering, and  
159 amending s. 110.151, F.S.; revising provisions  
160 relating to child care services provided by a state  
161 agency; transferring, renumbering, and amending s.  
162 110.181, F.S.; requiring state officers and employees  
163 to designate a charitable organization to receive  
164 certain charitable contributions; transferring,  
165 renumbering, and amending s. 110.1225, F.S.; revising  
166 and providing requirements relating to agency  
167 furloughs; transferring and renumbering s. 110.1155,  
168 F.S.; transferring, renumbering, and amending s.

HB 1261

2012

169 110.191, F.S.; revising provisions relating to state  
170 employee leasing; transferring, renumbering, and  
171 amending s. 110.1082, F.S.; revising provisions  
172 relating to state employee use of telephone voice mail  
173 systems; transferring, renumbering, and amending s.  
174 110.1165, F.S.; conforming provisions to changes made  
175 by the act; creating s. 112.922, F.S.; providing  
176 penalties for violations relating to state employment;  
177 transferring, renumbering, and amending s. 110.113,  
178 F.S.; requiring state employees to participate in the  
179 direct deposit program; transferring and renumbering  
180 s. 110.114, F.S.; creating s. 112.929, F.S.; providing  
181 for a savings sharing program for employees whose  
182 proposals result in savings for the state; providing  
183 duties of the department, state agencies, and the  
184 judicial branch; transferring, renumbering, and  
185 amending ss. 110.1227, 110.1228, and 110.12301, F.S.;  
186 conforming cross-references; transferring,  
187 renumbering, and amending s. 110.123, F.S.; conforming  
188 provisions to changes made by the act; transferring,  
189 renumbering, and amending s. 110.12312, F.S.;  
190 conforming cross-references; transferring and  
191 renumbering s. 110.12315, F.S.; transferring,  
192 renumbering, and amending s. 110.1232, F.S.;  
193 conforming cross-references; transferring and  
194 renumbering ss. 110.1234, 110.1238, and 110.1239,  
195 F.S.; transferring, renumbering, and amending s.  
196 110.161, F.S.; conforming a cross-reference; creating

197 s. 112.950, F.S.; providing penalties; transferring,  
198 renumbering, and amending s. 110.501, F.S.; revising  
199 and providing definitions relating to state volunteer  
200 services; transferring, renumbering, and amending s.  
201 110.502, F.S.; revising provisions relating to  
202 volunteer status; transferring, renumbering, and  
203 amending s. 110.503, F.S.; revising and providing  
204 state agency responsibilities; transferring,  
205 renumbering, and amending s. 110.504, F.S.; revising  
206 provisions relating to volunteer benefits; creating s.  
207 112.965, F.S.; providing penalties; repealing s.  
208 110.115, F.S., relating to employees of historical  
209 commissions, s. 110.118, F.S., relating to  
210 administrative leave for athletic competitions, s.  
211 110.124, F.S., relating to the termination or transfer  
212 of employees aged 65 or older, s. 110.129, F.S.,  
213 relating to technical assistance to political  
214 subdivisions, s. 110.1521, F.S., relating to a short  
215 title, s. 110.1522, F.S., relating to a model rule  
216 establishing family support personnel policies, s.  
217 110.1523, F.S., relating to the adoption of the model  
218 rule, s. 110.201, F.S., relating to personnel rules,  
219 records, and reports, s. 110.2035, F.S., relating to  
220 the classification and compensation program for  
221 employment positions, s. 110.21, F.S., relating to  
222 shared employment, s. 110.221, F.S., relating to  
223 parental or family medical leave, s. 110.406, F.S.,  
224 relating to senior management service data collection,



225 s. 110.603, F.S., relating to a classification plan  
 226 and pay bands for selected exempt positions, s.  
 227 110.604, F.S., relating to certain personnel actions  
 228 for selected exempt service employees, and s. 110.606,  
 229 F.S., relating to selected exempt service data  
 230 collection; amending ss. 11.13, 20.055, 20.21, 20.23,  
 231 20.255, 24.105, 24.122, 30.071, 43.16, 104.31, 106.24,  
 232 112.044, 112.0805, 112.313, 112.3145, 112.363,  
 233 121.021, 121.051, 121.055, 121.35, 145.19, 216.011,  
 234 216.181, 260.0125, 287.175, 295.07, 295.09, 296.04,  
 235 296.34, 381.00315, 381.85, 394.47865, 402.3057,  
 236 402.55, 402.7305, 402.731, 409.1757, 409.9205, 414.37,  
 237 427.012, 440.102, 447.203, 447.207, 447.209, 447.401,  
 238 456.048, 551.116, 570.07, 624.307, 624.437, 627.6488,  
 239 627.649, 627.6498, 627.6617, 627.6686, 849.086,  
 240 943.0585, 943.059, 945.043, 946.525, 985.045,  
 241 1001.705, 1001.706, 1002.36, 1012.62, 1012.79,  
 242 1012.88, and 1012.96, F.S.; conforming provisions to  
 243 changes made by the act; requiring a study and report  
 244 by the department; providing an effective date.

245

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

247

248 Section 1. The Division of Statutory Revision is requested  
 249 to rename chapter 110, Florida Statutes, as "State Personnel  
 250 System."

251 Section 2. The Division of Statutory Revision is requested  
 252 to rename part I of chapter 110, Florida Statutes, consisting of

253 ss. 110.105-110.184, Florida Statutes, as "General Provisions."

254 Section 3. Section 110.105, Florida Statutes, is amended  
 255 to read:

256 110.105 Establishment ~~Employment policy~~ of the State  
 257 Personnel System.-

258 (1) ~~It is~~ The purpose of this chapter is to establish the  
 259 State Personnel ~~a System of personnel management.~~ The ~~This~~  
 260 system shall provide a means for maintaining ~~to recruit, select,~~  
 261 ~~train, develop, and maintain~~ an effective and responsible  
 262 workforce and includes ~~shall include~~ policies, and procedures,  
 263 and guidelines for employee hiring and advancement, training and  
 264 career development, position classification, salary  
 265 administration, benefits, attendance and leave, discipline,  
 266 dismissal ~~discharge,~~ employee performance evaluations,  
 267 affirmative action, and other related activities.

268 ~~(2) All appointments, terminations, assignments and~~  
 269 ~~maintenance of status, compensation, privileges, and other terms~~  
 270 ~~and conditions of employment in state government shall be made~~  
 271 ~~without regard to age, sex, race, religion, national origin,~~  
 272 ~~political affiliation, marital status, or handicap, except when~~  
 273 ~~a specific sex, age, or physical requirement constitutes a bona~~  
 274 ~~fide occupational qualification necessary to proper and~~  
 275 ~~efficient administration.~~

276 ~~(3) Except as expressly provided by law, there shall be no~~  
 277 ~~Florida residence requirement for any person as a condition~~  
 278 ~~precedent to employment by the state; however, preference may be~~  
 279 ~~given to Florida residents in hiring.~~

280 (2)-(4) This chapter contains the requirements ~~and guides~~

281 for establishing and maintaining a system of personnel  
 282 administration on a merit basis. The system ~~of personnel~~  
 283 ~~administration~~ shall be implemented so as to ensure that the  
 284 ~~permit~~ state agencies in the State Personnel System are ~~to be~~  
 285 eligible for ~~to receive~~ federal funds.

286 ~~(5) Nothing in this chapter shall be construed either to~~  
 287 ~~infringe upon or to supersede the rights guaranteed public~~  
 288 ~~employees under chapter 447.~~

289 Section 4. Section 110.107, Florida Statutes, is  
 290 transferred, renumbered as section 110.1054, Florida Statutes,  
 291 and amended to read:

292 110.1054 ~~110.107~~ Definitions.—As used in this chapter, the  
 293 term:

294 (5) ~~(1)~~ "Department" means the Department of Management  
 295 Services.

296 (30) ~~(2)~~ "Secretary" means the Secretary of Management  
 297 Services.

298 ~~(3) "Furlough" means a temporary reduction in the regular~~  
 299 ~~hours of employment in a pay period, or temporary leave without~~  
 300 ~~pay for one or more pay periods, with a commensurate reduction~~  
 301 ~~in pay, necessitated by a projected deficit in any fund that~~  
 302 ~~supports salary and benefit appropriations. The deficit must be~~  
 303 ~~projected by the Revenue Estimating Conference pursuant to s.~~  
 304 ~~216.136(3).~~

305 (31) ~~(4)~~ "State agency" or "agency" means any entity within  
 306 the State Personnel System ~~official, officer, commission, board,~~  
 307 ~~authority, council, committee, or department of the executive~~  
 308 ~~branch or the judicial branch of state government as defined in~~

HB 1261

2012

309 ~~chapter 216.~~ (32) "State employee" or "employee" means an  
310 employee of a state agency.

311 (33) "State Personnel System" means the system of  
312 personnel administration for authorized civil service, selected  
313 exempt service, and senior management service positions and  
314 other-personal-services employment within the following state  
315 entities and organizational units of such entities as specified  
316 by law:

317 (a) Agency for Enterprise Information Technology.

318 (b) Agency for Health Care Administration.

319 (c) Agency for Persons with Disabilities.

320 (d) Department of Agriculture and Consumer Services.

321 (e) Department of Business and Professional Regulation.

322 (f) Department of Children and Family Services.

323 (g) Department of Citrus.

324 (h) Department of Corrections.

325 (i) Department of Economic Opportunity.

326 (j) Department of Education.

327 (k) Department of Elderly Affairs.

328 (l) Department of Environmental Protection.

329 (m) Department of Financial Services.

330 (n) Department of Health.

331 (o) Department of Highway Safety and Motor Vehicles.

332 (p) Department of Juvenile Justice.

333 (q) Department of Law Enforcement.

334 (r) Department of Legal Affairs.

335 (s) Department of Management Services.

336 (t) Department of Military Affairs.

- 337        (u) Department of Revenue.
- 338        (v) Department of State.
- 339        (w) Department of Transportation.
- 340        (x) Department of Veterans' Affairs.
- 341        (y) Executive Office of the Governor.
- 342        (z) Fish and Wildlife Conservation Commission.
- 343        (aa) Florida Public Service Commission.
- 344        (bb) Florida School for the Deaf and the Blind.
- 345        (cc) Parole Commission.
- 346        (22)-(5) "Position" means the ~~work, consisting of~~ duties  
 347 and responsibilities, ~~assigned~~ to be performed by an officer or  
 348 employee.
- 349        (23) "Position description" means the document that  
 350 accurately describes the assigned duties, responsibilities, and  
 351 other pertinent information, including licensure, certification,  
 352 or registration requirements, of a position and that serves as  
 353 the official record of the work and other requirements of the  
 354 position.
- 355        (10)-(6) "Full-time position" means a position authorized  
 356 for the entire normally established work period, whether daily,  
 357 weekly, monthly, or annually.
- 358        (19)-(7) "Part-time position" means a position authorized  
 359 for less than the entire normally established work period,  
 360 whether daily, weekly, monthly, or annually.
- 361        (16)-(8) "Occupation" means all positions that ~~which~~ are  
 362 sufficiently similar in knowledge, skills, ~~and~~ abilities, and  
 363 ~~sufficiently similar as to~~ kind or subject matter of work.
- 364        (17)-(9) "Occupational group" means a group of occupations

365 ~~that which~~ are sufficiently similar in the kind of work  
 366 performed to warrant the use of the same performance factors in  
 367 determining the level of complexity for all occupations in that  
 368 occupational group.

369 (18) "Other personal services" means temporary employment  
 370 as provided in s. 112.907.

371 (3)~~(10)~~ "Classification system plan" means a formal  
 372 description of the concepts, rules, job family definitions,  
 373 occupational group characteristics, ~~and~~ occupational profiles,  
 374 and broadband levels used to classify in the classification of  
 375 positions.

376 (20)~~(11)~~ "Pay plan" means a formal description of the  
 377 philosophy, methods, procedures, and salary schedules for  
 378 competitively compensating employees at market-based rates for  
 379 work performed.

380 (29)~~(12)~~ "Salary schedule" means an official document that  
 381 ~~which~~ contains a complete list of occupation titles, broadband  
 382 level codes, ~~and~~ pay bands, and other related information.

383 (1)~~(13)~~ "Authorized position" means a position included in  
 384 an approved budget. In counting the number of authorized  
 385 positions, part-time positions may be converted to full-time  
 386 equivalents.

387 (8)~~(14)~~ "Established position" means an authorized  
 388 position that ~~which~~ has been classified in accordance with a  
 389 classification system and pay plan as provided by law.

390 (24)~~(15)~~ "Position number" means the identification number  
 391 assigned to an established position or other-personal-services  
 392 employment position.

393           ~~(28)-(16)~~ "Reclassification" means the changing of an  
 394 established position in one broadband level in an occupational  
 395 ~~group~~ to a higher or lower broadband level within in the same  
 396 occupation or the changing of an established position to a  
 397 different occupation, either of which is the result of a change  
 398 in the duties and responsibilities of the position occupational  
 399 ~~group or to a broadband level in a different occupational group.~~

400           ~~(26)-(17)~~ "Promotion" means the moving of a civil service  
 401 employee to a higher broadband level within an occupation, or  
 402 the moving of an employee to an occupation with a broadband  
 403 level having ~~changing the classification of an employee to a~~  
 404 ~~broadband level having a higher maximum salary; or the changing~~  
 405 ~~of the classification of an employee to a broadband level having~~  
 406 ~~the same or a lower maximum salary but a higher level of~~  
 407 ~~responsibility.~~

408           ~~(4)-(18)~~ "Demotion" means the moving of a civil service  
 409 ~~changing the classification of an employee to a lower~~ broadband  
 410 level within an occupation, or the moving of an employee to an  
 411 occupation with a broadband level having a lower maximum salary;  
 412 ~~or the changing of the classification of an employee to a~~  
 413 ~~broadband level having the same or a higher maximum salary but a~~  
 414 ~~lower level of responsibility.~~

415           ~~(36)-(19)~~ "Transfer" means to move a civil service moving  
 416 ~~an~~ employee from one geographic location of the state to a  
 417 different geographic location that is more than in excess of 50  
 418 highway miles from the employee's current work location. The  
 419 mileage shall be calculated using an official Department of  
 420 Transportation map.

HB 1261

2012

421        ~~(27)-(20)~~ "Reassignment" means the moving of a civil  
422 service ~~an~~ employee from a position in an occupation to a  
423 position in the same occupation with the same ~~one~~ broadband  
424 level but different duties; to a ~~different~~ position in a  
425 different occupation with a ~~the same~~ broadband level having the  
426 same maximum salary; or to a position in the same occupation  
427 with the same ~~different~~ broadband level and substantially the  
428 same duties but that is in a different agency ~~having the same~~  
429 maximum salary.

430        ~~(6)-(21)~~ "Dismissal" means a disciplinary action taken by  
431 an agency pursuant to s. 110.227 against a civil service ~~an~~  
432 employee that results ~~resulting~~ in the termination of his or her  
433 employment.

434        ~~(34)-(22)~~ "Suspension" means a disciplinary action taken by  
435 an agency pursuant to s. 110.227 against a civil service ~~an~~  
436 employee that ~~to~~ temporarily relieves ~~relieve~~ the employee of  
437 his or her duties and places ~~place~~ him or her on leave without  
438 pay.

439        ~~(35)~~ "Telework" means an alternative work arrangement that  
440 allows an employee to conduct all or some of his or her work  
441 away from the official work site during all or some portion of  
442 the employee's established work hours on a regular basis.

443        ~~(14)-(23)~~ "Layoff" means termination of employment due to a  
444 shortage of funds or work, or a material change in the duties or  
445 organization of an agency, including the outsourcing or  
446 privatization of an activity or function previously performed by  
447 civil ~~career~~ service employees.

448        ~~(15)~~ "Merit status" means the status attained by a civil



449 service employee upon successfully completing the probationary  
 450 period for his or her current position by demonstrating  
 451 competency in performing the duties and responsibilities of that  
 452 position.

453 (7)(24) "Employing agency" means any agency authorized to  
 454 employ personnel to carry out the responsibilities of the agency  
 455 pursuant to ~~under the provisions of~~ chapter 20 or other law  
 456 ~~statutory authority.~~

457 ~~(25) "Shared employment" means part-time career employment~~  
 458 ~~whereby the duties and responsibilities of a full-time position~~  
 459 ~~in the career service are divided among part-time employees who~~  
 460 ~~are eligible for the position and who receive career service~~  
 461 ~~benefits and wages pro rata. In no case shall "shared~~  
 462 ~~employment" include the employment of persons paid from other-~~  
 463 ~~personal services funds.~~

464 (9)(26) "Firefighter" means a firefighter certified under  
 465 chapter 633.

466 (13)(27) "Law enforcement or correctional officer" means a  
 467 law enforcement officer, special agent, correctional officer,  
 468 correctional probation officer, or institutional security  
 469 specialist ~~required to be~~ certified under chapter 943.

470 (25)(28) "Professional health care provider" means  
 471 registered nurses, physician's assistants, dentists,  
 472 psychologists, nutritionists or dietitians, pharmacists,  
 473 psychological specialists, physical therapists, and speech and  
 474 hearing therapists.

475 (11)(29) "Job family" means a defined grouping of one or  
 476 more similar occupational groups.

HB 1261

2012

477           (12) "Lateral transfer" means the moving of a civil  
 478 service employee within an agency to a different position that  
 479 is in the same occupation, is at the same broadband level having  
 480 the same maximum salary, and has substantially the same duties  
 481 and responsibilities.

482           ~~(21)(30)~~ "Pay band" means the minimum salary, the maximum  
 483 salary, and intermediate rates that ~~which~~ are payable for work  
 484 in a specific broadband level.

485           ~~(2)(31)~~ "Broadband level" means all positions that ~~which~~  
 486 are sufficiently similar in knowledge, skills, and abilities;  
 487 ~~the, and sufficiently similar as to~~ kind or subject matter of  
 488 work; ~~the,~~ level of difficulty of ~~or~~ responsibilities; ~~;~~ and the  
 489 qualification requirements of the work so as to warrant the same  
 490 treatment with respect ~~as~~ to title, pay band, and other  
 491 personnel transactions.

492           Section 5. Section 110.1055, Florida Statutes, is amended  
 493 to read:

494           110.1055 ~~Rules and Rulemaking; records authority.~~

495           (1) The department ~~of Management Services~~ shall adopt  
 496 rules as necessary to carry out its statutory duties ~~effectuate~~  
 497 ~~the provisions of this chapter, as amended by this act, and in~~  
 498 ~~accordance with the authority granted to the department in this~~  
 499 ~~chapter. All existing rules relating to this chapter are~~  
 500 ~~statutorily repealed January 1, 2002, unless otherwise~~  
 501 ~~readopted.~~

502           (2) In consultation with the state agencies, the  
 503 department shall develop uniform personnel rules, guidelines,  
 504 records, and reports relating to employees in the State

HB 1261

2012

505 Personnel System. The department may adopt rules that provide  
506 alternative requirements.

507 (3) Upon adoption, the uniform personnel rules constitute  
508 the personnel rules for each state agency.

509 (a) Each agency must comply with the uniform personnel  
510 rules unless:

511 1. The Administration Commission has granted an exception  
512 to a specific rule. An agency may request an exception to the  
513 uniform personnel rules by filing a petition with the  
514 commission. The commission shall approve an exception if the  
515 exception is necessary to conform to any requirement imposed as  
516 a condition precedent to receipt of federal funds, to permit  
517 persons in this state to receive tax benefits under federal law,  
518 or to ensure the most efficient operation of the agency as  
519 determined by the commission. The reasons for the exception must  
520 be published in the Florida Administrative Weekly. Agency rules  
521 that provide exceptions to the uniform personnel rules may not  
522 be adopted unless approved by the commission.

523 2. The agency must comply with a statutory provision that  
524 conflicts with the uniform personnel rules. In such a case, the  
525 agency shall notify the department, the Administration  
526 Commission, the Administrative Procedures Committee, and the  
527 appropriate standing committees of the Legislature and advise  
528 the standing committees if the agency recommends revision of the  
529 statute to conform it to the uniform personnel rules. Agencies  
530 are encouraged to propose methods for conforming statutory  
531 provisions to the uniform personnel rules.

532 (b) An agency that adopts rules that provide an exception

HB 1261

2012

533 to the uniform personnel rules or that comply with statutory  
534 requirements that conflict with the uniform personnel rules must  
535 have a separate chapter published in the Florida Administrative  
536 Code. The chapter must clearly delineate the provisions of the  
537 agency's rules that provide an exception or that are based on a  
538 conflicting statutory requirement. Each alternative chosen from  
539 those authorized by the uniform personnel rules must be  
540 specified. Each chapter must be organized in the same manner as  
541 the uniform personnel rules.

542 (c) Any rule adopted by an agency that is an exception to  
543 the uniform personnel rules or that is based upon a conflicting  
544 statutory provision may not prescribe personnel policies  
545 inconsistent with this chapter. Such rules may not include any  
546 benefits for State Personnel System employees that exceed, or  
547 are in addition to, those authorized by this chapter and must  
548 comply with all federal regulations necessary to allow the  
549 agency to receive federal funds.

550 (4) The department may develop uniform forms and  
551 instructions relating to personnel transactions as the  
552 department determines necessary.

553 (5) The agency is responsible for maintaining up-to-date  
554 personnel records and reports in accordance with applicable  
555 rules and laws.

556 Section 6. Section 110.1056, Florida Statutes, is created  
557 to read:

558 110.1056 Agency audits.—The department may periodically  
559 audit agency records to determine compliance with this chapter  
560 and department rules.

561 Section 7. Section 110.405, Florida Statutes, is  
 562 transferred, renumbered as section 110.106, Florida Statutes,  
 563 and amended to read:

564 110.106 ~~110.405~~ Advisory committees.—The secretary ~~of~~  
 565 ~~Management Services~~ may at any time appoint an ad hoc or  
 566 continuing advisory committee consisting of members of the  
 567 Senior Management Service or other persons knowledgeable in the  
 568 field of personnel management. Advisory committees ~~Any Such~~  
 569 ~~committee shall consist of not more than nine members, who shall~~  
 570 ~~serve at the pleasure of~~ and meet at the call of the secretary  
 571 and, at the request of the secretary, shall provide advice and  
 572 consultation, ~~to advise and consult with the secretary on such~~  
 573 matters affecting the State Personnel System ~~Senior Management~~  
 574 ~~Service as the secretary requests~~. Members shall serve without  
 575 compensation, ~~but are~~ shall be entitled to receive reimbursement  
 576 for travel expenses as provided in s. 112.061. The secretary may  
 577 periodically hire a consultant who has ~~with~~ expertise in  
 578 personnel administration ~~management~~ to advise him or her with  
 579 respect to the administration of the State Personnel System  
 580 ~~Senior Management Service~~.

581 Section 8. Section 110.1065, Florida Statutes, is created  
 582 to read:

583 110.1065 General employment policies and requirements.—  
 584 (1) It is the policy of the State Personnel System:  
 585 (a) That all appointments, terminations, assignments, and  
 586 maintenance of status, compensation, privileges, and other terms  
 587 and conditions of employment in the State Personnel System shall  
 588 be made without regard to age, sex, race, color, religion,

HB 1261

2012

589 national origin, political affiliation, marital status,  
590 disability, or genetic information unless a specific requirement  
591 constitutes a bona fide occupational qualification.

592 (b) That sexual harassment is a form of discrimination  
593 and, therefore, is prohibited and shall be defined in a manner  
594 consistent with federal law.

595 (c) To support employees in balancing their personal needs  
596 and work responsibilities. This policy is designed to enhance  
597 the employee's ability to blend the competing demands of work  
598 and personal life and produce a more skilled, accountable, and  
599 committed workforce for the State Personnel System. Provisions  
600 may include, but need not be limited to, flexible work  
601 schedules, telework, part-time employment, and leaves of absence  
602 with or without pay.

603 (d) To adopt and comply with the federal Family and  
604 Medical Leave Act, except for those provisions that do not  
605 specifically apply to state government employers. With regard to  
606 those provisions, the sovereign immunity of the state is not  
607 waived and the rules of the department relating to leave  
608 control.

609 (2) Except as expressly provided by law, Florida residency  
610 shall not be a condition precedent to employment; however,  
611 preference in hiring may be given to state residents.

612 (3) State agencies that use other-personal-services  
613 employment must comply with s. 112.907.

614 (4) Employees of the State Personnel System may be  
615 furloughed pursuant to s. 112.917.

616 (5) This chapter may not be construed to infringe upon or

617 supersede the rights guaranteed to public employees under  
 618 chapter 447.

619 (6) The department may adopt rules necessary to administer  
 620 this section.

621 (7) Parts IX and XI of chapter 112 are applicable to the  
 622 State Personnel System. The department may adopt rules necessary  
 623 to administer those parts.

624 Section 9. Section 110.233, Florida Statutes, is  
 625 transferred, renumbered as section 110.1075, Florida Statutes,  
 626 and amended to read:

627 110.1075 ~~110.233~~ Political activities and unlawful acts  
 628 prohibited.—

629 (1) No person shall be appointed to, demoted, or dismissed  
 630 from any position in the Civil ~~career~~ Service, or in any way  
 631 favored or discriminated against with respect to employment in  
 632 the Civil ~~career~~ Service, because of ~~race, color, national~~  
 633 ~~origin, sex, handicap, religious creed, or political opinion or~~  
 634 affiliation.

635 (2) No person may ~~shall~~ use or promise to use, directly or  
 636 indirectly, any official authority or influence, whether  
 637 possessed or anticipated, to secure or attempt to secure for any  
 638 person an appointment or advantage in appointment to a position  
 639 in the Civil ~~career~~ Service, or an increase in pay or other  
 640 advantage in employment in any such position, for the purpose of  
 641 influencing the vote or political action of any person or for  
 642 any consideration. ~~;~~ However, letters of inquiry,  
 643 recommendations, and references by public employees or public  
 644 officials are ~~shall~~ not ~~be~~ considered political pressure unless

HB 1261

2012

645 ~~they contain any such letter contains~~ a threat, intimidation, or  
646 irrelevant, derogatory, or false information. For the purposes  
647 of this section, the term "political pressure," in addition to  
648 any appropriate meaning that ~~which~~ may be ascribed ~~thereto~~ by  
649 lawful authority, includes the use of official authority or  
650 influence in any manner prohibited by this chapter.

651 (3) No person may ~~shall~~, directly or indirectly, give,  
652 render, pay, offer, solicit, or accept any money, service, or  
653 other valuable consideration for or on account of any  
654 appointment, proposed appointment, promotion or proposed  
655 promotion to, or any advantage in, a position in the Civil  
656 ~~career~~ Service. ~~The provisions of This subsection~~ does ~~de~~ not  
657 apply to a private employment agency if ~~licensed pursuant to the~~  
658 ~~provisions of chapter 449 when~~ the services of the ~~such~~ private  
659 employment agency are requested by a state agency, ~~board,~~  
660 ~~department, or commission~~ and neither the state nor any  
661 political subdivision pays the private employment agency for  
662 such services.

663 (4) As an individual, each employee retains all rights and  
664 obligations of citizenship provided in the Constitution and laws  
665 of the state and the Constitution and laws of the United States.  
666 However, an ~~ne~~ employee in the Civil ~~career~~ Service may not  
667 ~~shall~~:

668 (a) Hold, or be a candidate for, public office while in  
669 the employment of the state or take an ~~any~~ active part in a  
670 political campaign while on duty or within any period of time  
671 during which the employee is expected to perform services for  
672 which he or she receives compensation from the state. However,



HB 1261

2012

673 | if ~~when~~ authorized by his or her agency head and approved by the  
 674 | department as not involving an ~~no~~ interest that ~~which~~ conflicts  
 675 | or activity that ~~which~~ interferes with his or her state  
 676 | employment, an employee in the Civil ~~career~~ Service may be a  
 677 | candidate for or hold local public office. The department shall  
 678 | prepare and make available to all affected personnel who make  
 679 | such request a definite set of rules and procedures consistent  
 680 | with this paragraph ~~the provisions herein~~.

681 | (b) Use the authority of his or her position to secure  
 682 | support for, or oppose, any candidate, party, or issue in a  
 683 | partisan election or affect the results thereof.

684 | (5) A No State Personnel System employee or official may  
 685 | not shall use any promise of reward or threat of loss to  
 686 | encourage or coerce any employee to support or contribute to any  
 687 | political issue, candidate, or party.

688 | (6) The department shall adopt by rule procedures for  
 689 | State Personnel Career Service System employees that require  
 690 | disclosure to the agency head of any application for or offer of  
 691 | employment, gift, contractual relationship, or financial  
 692 | interest with any individual, partnership, association,  
 693 | corporation, utility, or other organization, whether public or  
 694 | private, doing business with or subject to regulation by the  
 695 | agency.

696 | (7) The department may adopt rules to administer this  
 697 | section.

698 | Section 10. Section 110.1099, Florida Statutes, is amended  
 699 | to read:

700 | 110.1099 Elective education, professional development, and

701 training opportunities for civil service, selected exempt, and  
 702 senior management service state employees.-

703 (1) The education and professional development of  
 704 employees training are an integral components ~~component~~ in  
 705 improving the delivery of services to the public. Recognizing  
 706 that the application of productivity-enhancing technology and  
 707 practice demands continuous educational and development training  
 708 opportunities, an a state employee may ~~be authorized to~~ receive  
 709 a voucher, ~~or~~ grant, or tuition reimbursement for matriculation  
 710 fees, to attend work-related courses at public community  
 711 colleges, public career centers, ~~or~~ public universities, or  
 712 other accredited postsecondary educational institutions. ~~The~~  
 713 ~~department may implement the provisions of this section from~~  
 714 ~~funds appropriated to the department for this purpose. In the~~  
 715 ~~event insufficient funds are appropriated to the department,~~  
 716 Each state agency may ~~supplement these funds to~~ support the  
 717 ~~training and education~~ and professional development needs of its  
 718 employees from funds appropriated to the agency.

719 ~~(2) The department, in conjunction with the agencies,~~  
 720 ~~shall request that public universities provide evening and~~  
 721 ~~weekend programs for state employees. When evening and weekend~~  
 722 ~~training and educational programs are not available, an employee~~  
 723 ~~may be authorized to take paid time off during his or her~~  
 724 ~~regular working hours for training and career development, as~~  
 725 ~~provided in s. 110.105(1), if such training benefits the~~  
 726 ~~employer as determined by that employee's agency head.~~

727 (2)(3) An employee who exhibits superior aptitude and  
 728 performance may be authorized by his or her ~~that employee's~~

HB 1261

2012

729 agency head to take a paid educational leave of absence for up  
730 to 1 academic year at a time, for specific approved work-related  
731 education or professional development ~~and training~~. The ~~That~~  
732 employee must enter into a contract to return to the agency  
733 granting the leave ~~state employment~~ for a period of time equal  
734 to the length of the leave of absence or refund the salary and  
735 benefits paid during the ~~his or her educational~~ leave of  
736 absence.

737 (3) ~~(4)~~ As a precondition to approving an employee's  
738 ~~training~~ request for any education or professional development  
739 program, an agency ~~or the judicial branch~~ may require the ~~an~~  
740 employee to enter into an agreement that provides that, if the  
741 employee voluntarily terminates employment or is dismissed from  
742 the agency within a specified period of time not to exceed 2  
743 years after the conclusion of the program, he or she must  
744 ~~requires the employee to~~ reimburse the agency ~~or judicial branch~~  
745 for up to the total cost of fees and associated expenses for the  
746 program if the registration fee or similar expense for any  
747 ~~training or training series~~ when the total cost of the fees and  
748 associated expenses ~~fee or similar expense~~ exceeds \$1,000 ~~if the~~  
749 ~~employee voluntarily terminates employment or is discharged for~~  
750 ~~cause from the agency or judicial branch within a specified~~  
751 ~~period of time not to exceed 4 years after the conclusion of the~~  
752 ~~training~~. This subsection does not apply to any ~~training~~ program  
753 or course that an agency ~~or the judicial branch~~ requires an  
754 employee to attend. An agency ~~or the judicial branch~~ may pay the  
755 outstanding balance then due and owing on behalf of an ~~a state~~  
756 employee under this subsection in connection with the

HB 1261

2012

757 recruitment and hiring of such ~~state~~ employee.

758 ~~(4)(5) The department may of Management Services, in~~  
759 ~~consultation with the agencies and, to the extent applicable,~~  
760 ~~with Florida's public community colleges, public career centers,~~  
761 ~~and public universities, shall adopt rules to administer this~~  
762 section.

763 Section 11. Section 110.235, Florida Statutes, is  
764 transferred, renumbered as section 110.1115, Florida Statutes,  
765 and amended to read:

766 110.1115 ~~110.235~~ Training and professional development of  
767 employees.—

768 (1) State agencies shall implement training and  
769 professional development programs that encompass modern  
770 management principles, ~~and that~~ provide the framework to develop  
771 human resources, ~~through empowerment, training, and rewards for~~  
772 ~~productivity enhancement;~~ to continuously improve the quality of  
773 services, ~~and~~ to satisfy the expectations of the public.

774 (2) Each state employing agency shall provide the  
775 department with training information as requested for the  
776 purpose of analyzing statewide training needs annually evaluate  
777 ~~and report to the department the training it has implemented and~~  
778 ~~the progress it has made in the area of training.~~

779 (3) ~~As approved by the Legislature by law,~~ Each state  
780 ~~employing~~ agency may use a portion ~~specified percentage~~ of its  
781 salary budget to implement training programs.

782 (4) In order to promote the development of managerial,  
783 executive, or administrative skills among employees, each agency  
784 may establish and administer a training program that may

785 include, but need not be limited to:

786 (a) Improving the performance of individuals and groups of  
 787 employees.

788 (b) Relating the efforts of employees to the goals of the  
 789 agency.

790 (c) Strategic planning.

791 (d) Team leadership.

792 (5) The department is responsible for ensuring that  
 793 appropriate state agency personnel are adequately trained in the  
 794 proper administration of State Personnel System policies and  
 795 procedures, compliance with all applicable federal and state  
 796 workforce regulations, and the promotion of efficient and  
 797 equitable employment practices. The department may host  
 798 workshops, conferences, and other professional development  
 799 activities that focus on the training needs of agency staff who  
 800 are responsible for human resource management, training and  
 801 development, and benefits administration.

802 (a) The department may coordinate with the appropriate  
 803 business units of the state universities or community colleges  
 804 for the purpose of sponsoring conferences and expositions that  
 805 provide continuing professional development to the agencies in  
 806 the areas of human resource management, payroll and benefits  
 807 administration, and other topics critical to the proper  
 808 administration of the state workforce.

809 (b) For the purposes of leveraging resources and promoting  
 810 best practices, the department may open such conferences to all  
 811 state and local public employers having shared interests in  
 812 public-sector human resource management and related topics.

813           (6) The department may adopt rules necessary to administer  
 814 this section.

815           Section 12. Section 110.112, Florida Statutes, is amended  
 816 to read:

817           110.112 ~~Affirmative action;~~ Equal employment opportunity.-

818           (1) It ~~is shall be~~ the policy of the State Personnel  
 819 System to assist in ensuring ~~providing the assurance of~~ equal  
 820 employment opportunity through programs of affirmative and  
 821 positive action that ~~will~~ allow full utilization of women and  
 822 minorities.

823           (2) ~~(a)~~ The head of each state ~~executive~~ agency shall  
 824 develop and implement an affirmative action plan in accordance  
 825 with this section and applicable state and federal laws ~~rules~~  
 826 ~~adopted by the department and approved by a majority vote of the~~  
 827 ~~Administration Commission before their adoption.~~

828           (a) ~~(b)~~ Each ~~executive~~ agency shall establish annual goals  
 829 for ensuring the full utilization of groups underrepresented in  
 830 its workforce as compared to the relevant labor market, as  
 831 defined by the agency. Each ~~executive~~ agency shall design its  
 832 affirmative action plan to meet its established goals.

833           (b) ~~(c)~~ An equal ~~affirmative action~~ ~~equal~~ employment  
 834 opportunity officer shall be appointed by the head of each  
 835 ~~executive~~ agency. ~~The affirmative action equal employment~~  
 836 ~~opportunity officer's responsibilities must include determining~~  
 837 ~~annual goals, monitoring agency compliance, and providing~~  
 838 ~~consultation to managers regarding progress, deficiencies, and~~  
 839 ~~appropriate corrective action.~~

840           (c) ~~(d)~~ The department shall report information in its

HB 1261

2012

841 annual workforce report relating to the demographic composition  
842 of the workforce of the State Personnel System as compared to  
843 the relevant state labor market ~~implementation, continuance,~~  
844 ~~updating, and results of each executive agency's affirmative~~  
845 ~~action plan~~ for the previous fiscal year. The agencies shall  
846 provide the department with the information necessary to comply  
847 with this paragraph.

848 ~~(c) The department shall provide to all supervisory~~  
849 ~~personnel of the executive agencies training in the principles~~  
850 ~~of equal employment opportunity and affirmative action, the~~  
851 ~~development and implementation of affirmative action plans, and~~  
852 ~~the establishment of annual affirmative action goals. The~~  
853 ~~department may contract for training services, and each~~  
854 ~~participating agency shall reimburse the department for costs~~  
855 ~~incurred through such contract. After the department approves~~  
856 ~~the contents of the training program for the agencies, the~~  
857 ~~department may delegate this training to the executive agencies.~~

858 ~~(3) Each state attorney and public defender shall:~~

859 ~~(a) Develop and implement an affirmative action plan.~~

860 ~~(b) Establish annual goals for ensuring full utilization~~  
861 ~~of groups underrepresented in its workforce as compared to the~~  
862 ~~relevant labor market in this state. The state attorneys' and~~  
863 ~~public defenders' affirmative action plans must be designed to~~  
864 ~~meet the established goals.~~

865 ~~(c) Appoint an affirmative action equal employment~~  
866 ~~opportunity officer.~~

867 ~~(d) Report annually to the Justice Administrative~~  
868 ~~Commission on the implementation, continuance, updating, and~~

869 ~~results of his or her affirmative action program for the~~  
 870 ~~previous fiscal year.~~

871 (3)-(4) Each The state agency, its agencies and officers  
 872 shall ensure freedom from discrimination in employment in  
 873 accordance with applicable state and federal laws as provided by  
 874 the Florida Civil Rights Act of 1992, by s. 112.044, and by this  
 875 chapter.

876 (4) All recruitment literature that references State  
 877 Personnel System position vacancies must contain the phrase "An  
 878 Equal Opportunity Employer."

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

882 (6) The department may adopt rules necessary to administer  
 883 ~~shall review and monitor executive agency actions in carrying~~  
 884 ~~out the rules adopted by the department pursuant to this~~  
 885 ~~section.~~

886 Section 13. Section 110.1127, Florida Statutes, is  
 887 transferred, renumbered as section 112.926, Florida Statutes,  
 888 and amended to read:

889 112.926 110.1127 Employee background screening and  
 890 investigations security checks.-

891 (1) Except as provided in subsection (2), each state  
 892 agency shall designate employee positions that require security  
 893 background screening. All persons and employees in such  
 894 positions must undergo employment screening in accordance with  
 895 chapter 435, using level 1 screening standards, as a condition  
 896 of employment and continued employment.



897           ~~(2)(1)~~ Each state ~~employing~~ agency shall designate those  
 898 ~~employee~~ positions that, because of the special trust or  
 899 responsibility or sensitive location, require security  
 900 background investigations. All persons and employees in such  
 901 positions must undergo employment screening in accordance with  
 902 chapter 435, using level 2 screening standards ~~of those~~  
 903 ~~positions, require that persons occupying those positions be~~  
 904 ~~subject to a security background check, including~~  
 905 fingerprinting, as a condition of employment and continued  
 906 employment.

907           ~~(2)~~(a) All positions within the Division of Treasury of  
 908 the Department of Financial Services are deemed to be positions  
 909 of special trust or responsibility. ~~and~~ A person may be  
 910 disqualified for employment in any such position by reason of:

911           1. The conviction or prior conviction of a crime that  
 912 ~~which~~ is reasonably related to the nature of the position sought  
 913 or held by the individual; or

914           2. The entering of a plea of nolo contendere to, or ~~and~~ when  
 915 a jury verdict of guilty is rendered but adjudication of guilt  
 916 is withheld, ~~with respect to,~~ a crime that ~~which~~ is reasonably  
 917 related to the nature of the position sought or held by the  
 918 individual.

919           ~~(b)~~ ~~All employees of the division shall be required to~~  
 920 ~~undergo security background investigations, including~~  
 921 ~~fingerprinting, as a condition of employment and continued~~  
 922 ~~employment.~~

923           (b)~~(3)~~(a) All positions in programs providing care to  
 924 children, the developmentally disabled, or vulnerable adults for

925 15 hours or more per week; all permanent and temporary employee  
 926 positions of the central abuse hotline; and all persons working  
 927 under contract who have access to abuse records are deemed to be  
 928 persons and positions of special trust or responsibility, ~~and~~  
 929 ~~require employment screening pursuant to chapter 435, using the~~  
 930 ~~level 2 standards set forth in that chapter.~~

931 1.(b) The ~~employing~~ agency may grant exemptions from  
 932 disqualification from working with children, the developmentally  
 933 disabled, or vulnerable adults as provided in s. 435.07.

934 ~~(c) All persons and employees in such positions of trust~~  
 935 ~~or responsibility shall be required to undergo security~~  
 936 ~~background investigations as a condition of employment and~~  
 937 ~~continued employment. For the purposes of this subsection,~~  
 938 ~~security background investigations shall be conducted as~~  
 939 ~~provided in chapter 435, using the level 2 standards for~~  
 940 ~~screening set forth in that chapter.~~

941 2.(d) It is a misdemeanor of the first degree, punishable  
 942 as provided in s. 775.082 or s. 775.083, for any person  
 943 willfully, knowingly, or intentionally to:

944 a.1. Fail, by false statement, misrepresentation,  
 945 impersonation, or other fraudulent means, to disclose in any  
 946 application for voluntary or paid employment a material fact  
 947 used in making a determination as to such person's  
 948 qualifications for a position of special trust;

949 b.2. Use ~~records~~ information contained in records for  
 950 purposes other than background screening or investigation for  
 951 employment or release such records information to other persons  
 952 for purposes other than preemployment screening or investigation

953 ~~for employment.~~

954 3.(e) It is a felony of the third degree, punishable as  
 955 provided in s. 775.082, s. 775.083, or s. 775.084, for any  
 956 person to willfully, knowingly, or intentionally ~~to~~ use juvenile  
 957 records information for any purposes other than those specified  
 958 in this section or to release such information to other persons  
 959 for purposes other than those specified in this section.

960 (3)(4) Any person who is required to undergo such a  
 961 security background screening or investigation and who refuses  
 962 to cooperate in such screening or investigation or refuses to  
 963 submit fingerprints shall be disqualified for employment in such  
 964 position or, if employed, shall be dismissed.

965 (4)(5) ~~Such~~ Background screening and investigations shall  
 966 be conducted at the expense of the employing state agency. If  
 967 ~~When~~ fingerprinting is required, the fingerprints ~~of the~~  
 968 ~~employee or applicant for employment~~ shall be taken by the  
 969 ~~employing~~ agency or by an authorized law enforcement officer and  
 970 submitted to the Department of Law Enforcement for processing  
 971 and shall be forwarded ~~forwarding~~, if ~~when~~ requested by the  
 972 ~~employing~~ agency, to the United States Department of Justice for  
 973 processing. The ~~employing~~ agency shall reimburse the Department  
 974 of Law Enforcement for any costs incurred for ~~by it in the~~  
 975 processing ~~of~~ the fingerprints.

976 (5) The department may adopt rules necessary to administer  
 977 this section.

978 Section 14. Section 110.1135, Florida Statutes, is created  
 979 to read:

980 110.1135 Attendance and leave records.—Each state agency

981 shall keep an accurate record of all hours of work performed by  
 982 each employee, as well as a complete and accurate record of all  
 983 authorized leave taken. The agency head has ultimate  
 984 responsibility for the accuracy and proper maintenance of all  
 985 attendance and leave records.

986 Section 15. Section 110.116, Florida Statutes, is amended  
 987 to read:

988 110.116 Human resource ~~Personnel~~ information system;  
 989 payroll procedures.—

990 (1) ~~The department of Management Services~~ shall establish  
 991 and maintain, in coordination with the payroll system of the  
 992 Department of Financial Services, a complete human resource  
 993 ~~personnel~~ information system for all authorized and established  
 994 positions in the State Personnel System ~~service, with the~~  
 995 ~~exception of employees of the Legislature, unless the~~  
 996 ~~Legislature chooses to participate.~~ The department may contract  
 997 with a vendor to provide the human resource ~~personnel~~  
 998 information system. The specifications shall be developed in  
 999 conjunction with the payroll system of the Department of  
 1000 Financial Services and in coordination with the Auditor General.  
 1001 The Department of Financial Services shall determine that the  
 1002 position occupied by each employee has been authorized and  
 1003 established in accordance with ~~the provisions of s. 216.251.~~ The  
 1004 human resource information system must include ~~Department of~~  
 1005 ~~Management Services shall develop and maintain~~ a position  
 1006 numbering system that identifies ~~will identify~~ each established  
 1007 position, and such information shall be a part of the payroll  
 1008 system of the Department of Financial Services. The ~~With the~~

HB 1261

2012

1009 ~~exception of employees of the Legislature, unless the~~  
 1010 ~~Legislature chooses to participate, this system~~ must ~~shall~~  
 1011 include all civil ~~career~~ service positions and those positions  
 1012 exempted from the Civil Service ~~career service~~ provisions,  
 1013 notwithstanding the funding source of the salary payments, and  
 1014 information regarding persons receiving salary payments from  
 1015 other sources. Necessary revisions shall be made in the  
 1016 personnel and payroll procedures of the state to avoid  
 1017 duplication to the extent that it insofar as is feasible to do  
 1018 so. The information in the system must ~~A list shall~~ be organized  
 1019 by budget entity to show the employees or vacant positions  
 1020 within each budget entity. The information ~~This list~~ shall be  
 1021 made available to the Speaker of the House of Representatives  
 1022 and the President of the Senate upon request.

1023 (2) The department may adopt rules necessary to administer  
 1024 this section.

1025 Section 16. Section 110.117, Florida Statutes, is  
 1026 transferred, renumbered as section 112.927, Florida Statutes,  
 1027 and amended to read:

1028 112.927 ~~110.117~~ Paid holidays and personal day.-

1029 (1) The following holidays are ~~shall be~~ paid holidays  
 1030 observed by all state ~~branches and~~ agencies:

- 1031 (a) New Year's Day.
- 1032 (b) Birthday of Martin Luther King, Jr., third Monday in  
 1033 January.
- 1034 (c) Memorial Day.
- 1035 (d) Independence Day.
- 1036 (e) Labor Day.

HB 1261

2012

- 1037 (f) Veterans' Day, November 11.
- 1038 (g) Thanksgiving Day.
- 1039 (h) Friday after Thanksgiving.
- 1040 (i) Christmas Day.

1041

1042 ~~(j)~~ If any of these holidays falls on Saturday, the  
 1043 preceding Friday shall be observed as a holiday. If any of these  
 1044 holidays falls on Sunday, the following Monday shall be observed  
 1045 as a holiday.

1046 (2) The Governor may declare, if ~~when~~ appropriate, a state  
 1047 day of mourning in observance of the death of a person in  
 1048 recognition of service rendered to the state or nation.

1049 (3) Each full-time employee in an authorized and  
 1050 established position is entitled to one personal day ~~holiday~~  
 1051 each year. Each part-time employee is entitled to a personal day  
 1052 ~~holiday~~ each year, which shall be calculated based on the full-  
 1053 time equivalency of the position ~~proportionately to the personal~~  
 1054 ~~holiday allowed to a full-time employee.~~ The ~~Such~~ personal day  
 1055 ~~holiday~~ shall be credited to eligible employees on July 1 of  
 1056 each year and must ~~to~~ be taken by ~~prior to~~ June 30 of the  
 1057 following year or forfeited. The personal day must be taken as a  
 1058 whole day and may not be used incrementally. Members of the  
 1059 teaching and research faculty of the State University System and  
 1060 administrative and professional positions exempted under s.  
 1061 110.205(2) (d) are not eligible for this benefit.

1062 (4) Other-personal-services employees are not eligible for  
 1063 paid holidays or a personal day.

1064 Section 17. Section 110.1245, Florida Statutes, is amended

HB 1261

2012

1065 to read:

1066 110.1245 ~~Savings sharing program;~~ Bonus payments; other  
 1067 awards.—

1068 ~~(1)(a) The Department of Management Services shall adopt~~  
 1069 ~~rules that prescribe procedures and promote a savings sharing~~  
 1070 ~~program for an individual or group of employees who propose~~  
 1071 ~~procedures or ideas that are adopted and that result in~~  
 1072 ~~eliminating or reducing state expenditures, if such proposals~~  
 1073 ~~are placed in effect and may be implemented under current~~  
 1074 ~~statutory authority.~~

1075 ~~(b) Each agency head shall recommend employees~~  
 1076 ~~individually or by group to be awarded an amount of money, which~~  
 1077 ~~amount shall be directly related to the cost savings realized.~~  
 1078 ~~Each proposed award and amount of money must be approved by the~~  
 1079 ~~Legislative Budget Commission.~~

1080 ~~(c) Each state agency, unless otherwise provided by law,~~  
 1081 ~~may participate in the program. The Chief Justice shall have the~~  
 1082 ~~authority to establish a savings sharing program for employees~~  
 1083 ~~of the judicial branch within the parameters established in this~~  
 1084 ~~section. The program shall apply to all employees within the~~  
 1085 ~~Career Service, the Selected Exempt Service, and comparable~~  
 1086 ~~employees within the judicial branch.~~

1087 ~~(d) The department and the judicial branch shall submit~~  
 1088 ~~annually to the President of the Senate and the Speaker of the~~  
 1089 ~~House of Representatives information that outlines each agency's~~  
 1090 ~~level of participation in the savings sharing program. The~~  
 1091 ~~information shall include, but is not limited to:~~

1092 1. ~~The number of proposals made.~~

1093 ~~2. The number of dollars and awards made to employees or~~  
 1094 ~~groups for adopted proposals.~~

1095 ~~3. The actual cost savings realized as a result of~~  
 1096 ~~implementing employee or group proposals.~~

1097 ~~(1)(2) State agencies may pay~~ In June of each year,  
 1098 ~~bonuses shall be paid to employees from funds authorized by the~~  
 1099 ~~Legislature in an appropriation specifically for bonuses.~~  
 1100 Bonuses shall be distributed in accordance with the criteria and  
 1101 instructions provided in the General Appropriations Act. Each  
 1102 ~~agency shall develop a plan for awarding lump sum bonuses, which~~  
 1103 ~~plan shall be submitted no later than September 15 of each year~~  
 1104 ~~and approved by the Office of Policy and Budget in the Executive~~  
 1105 ~~Office of the Governor. Such plan shall include, at a minimum,~~  
 1106 ~~but is not limited to:~~

1107 ~~(a) A statement that bonuses are subject to specific~~  
 1108 ~~appropriation by the Legislature.~~

1109 ~~(b) Eligibility criteria as follows:~~

1110 ~~1. The employee must have been employed prior to July 1 of~~  
 1111 ~~that fiscal year and have been continuously employed through the~~  
 1112 ~~date of distribution.~~

1113 ~~2. The employee must not have been on leave without pay~~  
 1114 ~~consecutively for more than 6 months during the fiscal year.~~

1115 ~~3. The employee must have had no sustained disciplinary~~  
 1116 ~~action during the period beginning July 1 through the date the~~  
 1117 ~~bonus checks are distributed. Disciplinary actions include~~  
 1118 ~~written reprimands, suspensions, dismissals, and involuntary or~~  
 1119 ~~voluntary demotions that were associated with a disciplinary~~  
 1120 ~~action.~~



1121 ~~4. The employee must have demonstrated a commitment to the~~  
 1122 ~~agency mission by reducing the burden on those served,~~  
 1123 ~~continually improving the way business is conducted, producing~~  
 1124 ~~results in the form of increased outputs, and working to improve~~  
 1125 ~~processes.~~

1126 ~~5. The employee must have demonstrated initiative in work~~  
 1127 ~~and have exceeded normal job expectations.~~

1128 ~~6. The employee must have modeled the way for others by~~  
 1129 ~~displaying agency values of fairness, cooperation, respect,~~  
 1130 ~~commitment, honesty, excellence, and teamwork.~~

1131 ~~(c) A periodic evaluation process of the employee's~~  
 1132 ~~performance.~~

1133 ~~(d) A process for peer input that is fair, respectful of~~  
 1134 ~~employees, and affects the outcome of the bonus distribution.~~

1135 ~~(e) A division of the agency by work unit for purposes of~~  
 1136 ~~peer input and bonus distribution.~~

1137 ~~(f) A limitation on bonus distributions equal to 35~~  
 1138 ~~percent of the agency's total authorized positions. This~~  
 1139 ~~requirement may be waived by the Office of Policy and Budget in~~  
 1140 ~~the Executive Office of the Governor upon a showing of~~  
 1141 ~~exceptional circumstances.~~

1142 (2)(3) Consistent with the requirements of s. 215.425(3),  
 1143 and limited to the funds provided in the agency's approved  
 1144 operating budget for salaries and benefits, each agency head may  
 1145 provide bonus awards to department head is authorized to incur  
 1146 expenditures to award suitable framed certificates, pins, and  
 1147 other tokens of recognition to retiring state employees based on  
 1148 exemplary performance or whose service with the state has been

1149 ~~satisfactory,~~ in appreciation of their role in the achievement  
 1150 of the agency's mission, values, or goals ~~and recognition of~~  
 1151 ~~such service.~~

1152 (a) Each award ~~Such awards~~ may not exceed \$1,000 ~~cost in~~  
 1153 ~~excess of \$100 each~~ plus applicable taxes. An employee may not  
 1154 receive awards totaling more than \$1,000 plus applicable taxes  
 1155 per fiscal year.

1156 (b) Each year, by September 1, agencies shall report to  
 1157 the Governor, the President of the Senate, and the Speaker of  
 1158 the House of Representatives the dollar value and number of  
 1159 bonus awards given in the previous fiscal year.

1160 ~~(3)-(4)~~ Each agency department head ~~may~~ is authorized to  
 1161 incur expenditures to award suitable framed certificates, pins,  
 1162 and ~~or~~ other noncash tokens of recognition. Each token ~~to state~~  
 1163 ~~employees who demonstrate satisfactory service in the agency or~~  
 1164 ~~to the state, in appreciation and recognition of such service.~~  
 1165 ~~Such awards may not cost more than \$150 in excess of \$100 each~~  
 1166 plus applicable taxes. Such tokens may be awarded to:

1167 (a) Current employees, in appreciation and recognition of  
 1168 their service to the state.

1169 (b) Retiring employees, in appreciation and recognition of  
 1170 their service to the state.

1171 (c) An appointed member of a state board or commission, in  
 1172 appreciation and recognition of his or her service to the state  
 1173 upon the expiration of the member's final term in such position.

1174 (4) The department may adopt rules necessary to administer  
 1175 this section.

1176 ~~(5) Each department head is authorized to incur~~

HB 1261

2012

1177 ~~expenditures not to exceed \$100 each plus applicable taxes for~~  
 1178 ~~suitable framed certificates, plaques, or other tokens of~~  
 1179 ~~recognition to any appointed member of a state board or~~  
 1180 ~~commission whose service to the state has been satisfactory, in~~  
 1181 ~~appreciation and recognition of such service upon the expiration~~  
 1182 ~~of such board or commission member's final term in such~~  
 1183 ~~position.~~

1184 Section 18. Section 110.125, Florida Statutes, is amended  
 1185 to read:

1186 110.125 Administrative costs.—

1187 (1) The administrative expenses and costs of operating the  
 1188 personnel program established by this chapter shall be paid by  
 1189 the state ~~various~~ agencies ~~of the state government~~, and each  
 1190 such agency shall include in its budget estimates its pro rata  
 1191 share of such cost as determined by the department ~~of Management~~  
 1192 ~~Services~~.

1193 (a) To establish an equitable division of ~~the~~ costs, the  
 1194 amount to be paid by each agency shall be based on the number of  
 1195 authorized full-time equivalent (FTE) positions appropriated to  
 1196 the agency, the average number of other-personal-services  
 1197 employees paid by the agency, and the total administrative  
 1198 expenses and costs of operating the personnel program  
 1199 established by ~~determined in such proportion as the service~~  
 1200 ~~rendered to each agency bears to the total service rendered~~  
 1201 ~~under the provisions of this chapter. The amounts paid to the~~  
 1202 ~~Department of Management Services which are attributable to~~  
 1203 ~~positions within the Senior Management Service and the Selected~~  
 1204 ~~Professional Service shall be used for the administration of~~

HB 1261

2012

1205 ~~such services, training activities for positions within those~~  
 1206 ~~services, and the development and implementation of a database~~  
 1207 ~~of pertinent historical information on exempt positions.~~

1208 (b) If ~~Should~~ any state agency is ~~become~~ more than 90 days  
 1209 delinquent in paying ~~payment of~~ this obligation, the department  
 1210 shall certify to the Chief Financial Officer the amount due, and  
 1211 the Chief Financial Officer shall transfer that ~~the~~ amount ~~due~~  
 1212 to the department from any available debtor agency funds  
 1213 available.

1214 (2) Any government entity outside the State Personnel  
 1215 System that, by mutual agreement between the department and the  
 1216 entity, receives or utilizes services of more than a de minimis  
 1217 value from the personnel program established by this chapter  
 1218 shall pay the department for the administrative expenses and  
 1219 costs associated with those services as determined by the  
 1220 department. Each such entity shall include such costs in its  
 1221 budget estimate. If any government entity is more than 90 days  
 1222 delinquent in paying this obligation, the department shall  
 1223 certify to the Chief Financial Officer the amount due, and the  
 1224 Chief Financial Officer shall transfer that amount to the  
 1225 department from any available debtor entity funds.

1226 (3) The department may adopt rules necessary to administer  
 1227 this section.

1228 Section 19. Section 110.126, Florida Statutes, is amended  
 1229 to read:

1230 110.126 Oaths, testimony, records; penalties.-

1231 (1) The department ~~may~~ shall ~~have power to~~ administer  
 1232 oaths, subpoena witnesses, and compel the production of books,

HB 1261

2012

1233 ~~and~~ papers, or other records, in written or electronic form,  
 1234 relevant ~~pertinent~~ to any investigation of personnel practices  
 1235 or hearing authorized by this chapter. Any person who fails  
 1236 ~~shall fail~~ to appear in response to a subpoena or to answer any  
 1237 question or produce any books, ~~or~~ papers, or other records  
 1238 relevant ~~pertinent~~ to any such investigation or hearing or who  
 1239 ~~shall~~ knowingly gives ~~give~~ false testimony commits ~~therein shall~~  
 1240 ~~be guilty of~~ a misdemeanor of the first degree, punishable as  
 1241 provided in s. 775.082 or s. 775.083.

1242 (2) The department may adopt rules necessary to administer  
 1243 this section.

1244 Section 20. Section 110.127, Florida Statutes, is amended  
 1245 to read:

1246 110.127 Penalties.—

1247 (1) Any person who willfully violates any provision of  
 1248 this chapter or ~~of~~ any rules adopted pursuant to this chapter  
 1249 commits ~~the authority herein granted is guilty of~~ a misdemeanor  
 1250 of the second degree, punishable as provided in s. 775.082 or s.  
 1251 775.083.

1252 ~~(2) The provisions of s. 112.011 to the contrary~~  
 1253 Notwithstanding s. 112.011, any person who is convicted of a  
 1254 misdemeanor under this chapter is ~~shall be, for a period of 5~~  
 1255 ~~years,~~ ineligible for appointment to or employment in a ~~position~~  
 1256 ~~in~~ the State Personnel System for 5 years ~~service~~ and, if an  
 1257 employee of the system ~~state~~, shall forfeit his or her position.

1258 (3) Imposition of the penalties provided in this section  
 1259 may ~~shall~~ not be in lieu of any action that ~~which~~ may be taken  
 1260 or penalties that ~~which~~ may be imposed pursuant to part III of

1261 chapter 112.

1262 (4) The department may adopt rules necessary to administer  
 1263 this section.

1264 Section 21. Section 110.1315, Florida Statutes, is  
 1265 transferred, renumbered as section 112.9075, Florida Statutes,  
 1266 and amended to read:

1267 112.9075 ~~110.1315~~ Alternative benefits; other-personal-  
 1268 services employees.—

1269 (1) Upon review and recommendation of the department and  
 1270 approval of the Executive Office of the Governor, the Department  
 1271 of Financial Services shall provide ~~may contract for the~~  
 1272 ~~implementation of~~ an alternative retirement income security  
 1273 program for eligible temporary and seasonal employees of the  
 1274 state who are compensated from appropriations for other personal  
 1275 services. The Department of Financial Services may contract with  
 1276 ~~may provide for~~ a private vendor or vendors to administer the  
 1277 program under a defined-contribution plan under ss. 401(a) and  
 1278 403(b) or s. 457 of the Internal Revenue Code, and the program  
 1279 must provide retirement benefits as required under s.  
 1280 3121(b)(7)(F) of the Internal Revenue Code. The Department of  
 1281 Financial Services may develop a request for proposals and  
 1282 solicit qualified vendors to compete for the award of the  
 1283 contract. A vendor shall be selected on the basis of the plan  
 1284 that best serves the interest of the participating employees and  
 1285 the state. The proposal must comply with all necessary federal  
 1286 and state laws and rules.

1287 (2) The Department of Financial Services may adopt rules  
 1288 necessary to administer this section.

1289 Section 22. Section 110.171, Florida Statutes, is  
 1290 transferred, renumbered as section 112.928, Florida Statutes,  
 1291 and amended to read:

1292 (Substantial rewording of section. See  
 1293 s. 110.171, F.S., for present text.)  
 1294 112.928 Telework program.-

1295 (1) State agencies shall provide telework as an optional  
 1296 alternative work arrangement to support employee needs and shall  
 1297 implement telework arrangements where deemed appropriate. In  
 1298 addition, agencies may establish telework as an integral part of  
 1299 the normal business operations of the agency and require that  
 1300 specific work be performed through telework arrangements.  
 1301 Telework may also be used as part of an agency's continuity of  
 1302 operations plan where appropriate.

1303 (2) Work extensions and the sporadic conduct of all or  
 1304 some of the work performed away from the official work site  
 1305 during all or some portion of the established work hours are not  
 1306 considered telework. These arrangements may be used by agencies  
 1307 to accommodate extenuating circumstances that allow employees to  
 1308 maintain productivity away from the official work site. Mobile  
 1309 work is also not considered telework. Such activities do not  
 1310 require a written telework agreement. As used in this  
 1311 subsection, the term:

1312 (a) "Mobile work" means duties and responsibilities that,  
 1313 by their nature, are performed routinely in the field away from  
 1314 the official work site.

1315 (b) "Work extension" means the performance of required  
 1316 work duties away from the official work site and outside of

HB 1261

2012

1317 established work hours on an occasional basis.

1318 (3) Each agency shall review all established positions and  
1319 designate those positions that the agency deems appropriate for  
1320 telework. The agency shall ensure this information is current  
1321 and available to its employees and managers. In addition, each  
1322 agency shall identify all currently participating employees and  
1323 their respective positions in the human resource information  
1324 system utilized by that agency.

1325 (4) Each agency that has a telework program shall develop  
1326 an agency plan that addresses the agency's telework policies and  
1327 procedures. At a minimum, an agency telework plan must:

1328 (a) Establish criteria for evaluating the ability of  
1329 employees to satisfactorily perform in a telework arrangement.

1330 (b) Establish performance standards that ensure that  
1331 employees participating in the program maintain satisfactory  
1332 performance levels.

1333 (c) Ensure teleworkers are subject to the same rules and  
1334 disciplinary actions as other employees.

1335 (d) Establish the reasonable conditions that the agency  
1336 plans to impose in order to ensure appropriate use and  
1337 maintenance of any equipment issued by the agency.

1338 (e) Establish a system for monitoring the productivity of  
1339 teleworking employees that ensures that the work output remains  
1340 at a satisfactory level and that the duties and responsibilities  
1341 of the position remain suitable for a telework arrangement.

1342 (f) Establish the appropriate physical and electronic  
1343 information security controls to be maintained by a teleworker  
1344 at the telework site.



HB 1261

2012

1345 (g) Prohibit employees engaged in telework from conducting  
1346 face-to-face state business at their residences.

1347 (5) Each agency that approves employees to use telework as  
1348 an optional alternative work arrangement shall:

1349 (a) Require a written agreement between the teleworker and  
1350 the agency that specifies the terms and conditions of the  
1351 telework arrangement and provides for the termination of an  
1352 employee's participation in the program if the employee's  
1353 continued participation is not in the best interest of the  
1354 agency.

1355 (b) Ensure that participation by an employee is voluntary  
1356 and that the employee may discontinue participation after  
1357 providing reasonable notice to the agency.

1358 (6) Each agency that requires certain employees to  
1359 telework as a part of normal business operations shall:

1360 (a) Include the requirement to telework and the associated  
1361 terms and conditions as part of the position description,  
1362 specifying the minimum amount of telework hours required.

1363 (b) Provide at least 30 days' written notice to affected  
1364 employees of its intent to impose or remove a telework  
1365 requirement.

1366 (c) Provide at least 15 days' written notice to affected  
1367 employees of its intent to revise the terms and conditions of  
1368 their current telework arrangement.

1369 (d) Provide equipment and supplies to an employee  
1370 necessary to carry out job functions from the telework site.

1371 (e) Specify the telework requirement in any recruitment  
1372 activities.

1373           (7) Each agency that has a telework program shall  
 1374 establish and track performance measures that support telework  
 1375 program analysis and report data annually to the department's  
 1376 Facilities Program in accordance with s. 255.249(3)(d). Such  
 1377 measures must include, but need not be limited to, those that  
 1378 quantify:

1379           (a) Financial impacts associated with changes in office  
 1380 space requirements resulting from the telework program. State  
 1381 agencies operating in office space owned or managed by the  
 1382 department shall consult the Facilities Program to ensure  
 1383 consistency with the strategic leasing plan required under s.  
 1384 255.249(3)(b).

1385           (b) Energy consumption changes resulting from the telework  
 1386 program.

1387           (c) Greenhouse gas emission changes resulting from the  
 1388 telework program.

1389           (8) Each agency that has a telework program shall post the  
 1390 agency telework plan and any pertinent supporting documents on  
 1391 the agency website to allow access by employees and the public.

1392           (9) Agencies may approve other personal services employees  
 1393 to participate in telework programs.

1394           (10) Each agency that is authorized to adopt rules  
 1395 governing the conditions of employment may adopt rules necessary  
 1396 to administer this section.

1397           Section 23. Section 110.2037, Florida Statutes, is  
 1398 transferred, renumbered as section 110.182, Florida Statutes,  
 1399 and amended to read:

1400           110.182 ~~110.2037~~ Alternative benefits; tax-sheltered

1401 annual leave and sick leave payments and special compensation  
 1402 payments.—

1403 (1) The department may ~~of Management Services has~~  
 1404 ~~authority to~~ adopt tax-sheltered plans under s. 401(a) of the  
 1405 Internal Revenue Code for ~~state~~ employees who are eligible for  
 1406 payment for accumulated leave. ~~The department,~~ Upon adoption of  
 1407 the plans, the department shall contract for a private vendor or  
 1408 vendors to administer the plans.

1409 (a) These plans are ~~shall be~~ limited to ~~state~~ employees  
 1410 who are over age 55 and who are:

1411 1. Eligible for accumulated leave and special compensation  
 1412 payments and separating from employment with 10 years of service  
 1413 in accordance with the Internal Revenue Code; or

1414 2. ~~who are~~ Participating in the Deferred Retirement Option  
 1415 Program on or after July 1, 2001.

1416 (b) The plans must provide benefits in a manner that  
 1417 minimizes the tax liability of the state and participants.

1418 (c) The plans must be funded by employer contributions of  
 1419 payments for accumulated leave or special compensation payments,  
 1420 or both, as specified by the department.

1421 (d) The plans must have received all necessary federal and  
 1422 state approval as required by law, must not adversely impact the  
 1423 qualified status of the Florida Retirement System defined  
 1424 benefit or defined contribution plans or the pretax benefits  
 1425 program, and must comply with ~~the provisions of~~ s. 112.65.

1426 Adoption of any plan is contingent on ~~the~~ department receiving  
 1427 appropriate favorable rulings from the Internal Revenue  
 1428 Service, and the department negotiating under ~~the provisions of~~

HB 1261

2012

1429 chapter 447, where applicable,<sup>+</sup> and the Chief Financial Officer  
 1430 making appropriate changes to the state payroll system.

1431 (e) The department's request for proposals by vendors for  
 1432 such plans may require that ~~the~~ vendors provide market-risk or  
 1433 volatility ratings from recognized rating agencies for each of  
 1434 their investment products.

1435 (f) The department shall provide ~~for~~ a system of  
 1436 continuous quality assurance oversight to ensure that the  
 1437 program objectives are achieved and that the program is  
 1438 prudently managed.

1439 (2) Within 30 days after termination of employment, an  
 1440 employee may ~~elect to~~ withdraw the moneys and no ~~without~~ penalty  
 1441 may be assessed by the plan administrator. If an ~~any~~ employee is  
 1442 adversely affected by payment of an excise tax or an ~~any~~  
 1443 Internal Revenue Service penalty by withdrawing ~~electing to~~  
 1444 ~~withdraw~~ funds within 30 days, the plan must ~~shall~~ include a  
 1445 provision that provides ~~which will provide~~ the employee with no  
 1446 less cash than if the employee had not participated in the plan.

1447 (3) These contracts may be used by any other pay plans or  
 1448 personnel systems in the executive, legislative, or judicial  
 1449 branches of government upon approval of the appropriate  
 1450 administrative authority.

1451 (4) (a) Notwithstanding the terminal pay provisions of s.  
 1452 112.910 ~~110.122~~, the department may contract for a tax-sheltered  
 1453 plan for leave and special compensation pay for employees who  
 1454 are terminating over age 55 and who are:

- 1455 1. Separating from employment with 10 years of service; or
- 1456 2. and for employees Participating in the Deferred

HB 1261

2012

1457 Retirement Option Program on or after July 1, 2001, ~~and who are~~  
 1458 ~~over age 55.~~

1459 (b) The frequency of payments into the plan shall be  
 1460 determined by the department or as provided in the General  
 1461 Appropriations Act. This plan must ~~or plans shall~~ provide the  
 1462 greatest tax benefits to the employees and maximize the savings  
 1463 to the state.

1464 (5) The department shall determine by rule the design of  
 1465 the plans and the eligibility of participants.

1466 (6) ~~Nothing in This section does not shall be construed to~~  
 1467 ~~remove plan participants from the scope of s. 112.910(5)~~  
 1468 ~~110.122(5).~~

1469 (7) The department may adopt rules necessary to administer  
 1470 this section.

1471 Section 24. Section 110.183, Florida Statutes, is created  
 1472 to read:

1473 110.183 Collective bargaining.—The department shall  
 1474 coordinate with the Governor and state agencies on personnel  
 1475 matters falling within the scope of collective bargaining and  
 1476 shall represent the Governor in collective bargaining  
 1477 negotiations and other collective bargaining matters as  
 1478 necessary. All discussions relative to collective bargaining  
 1479 between the department and the Governor and between the  
 1480 department and the agency heads, or discussions between any of  
 1481 their respective representatives, are exempt from s. 286.011,  
 1482 and all work products relative to collective bargaining  
 1483 developed in conjunction with such discussions are confidential  
 1484 and exempt from s. 119.07(1).

HB 1261

2012

1485 Section 25. Section 110.184, Florida Statutes, is created  
 1486 to read:

1487 110.184 Workforce report.—The department shall prepare a  
 1488 workforce report on human resources in the State Personnel  
 1489 System. The report shall provide data and identify trends for  
 1490 planning and improving the management of the State Personnel  
 1491 System. The department shall annually submit the report to the  
 1492 Governor, the President of the Senate, and the Speaker of the  
 1493 House of Representatives.

1494 Section 26. The Division of Statutory Revision is  
 1495 requested to rename part II of chapter 110, Florida Statutes,  
 1496 consisting of ss. 110.201-110.227, Florida Statutes, as "Civil  
 1497 Service."

1498 Section 27. Section 110.202, Florida Statutes, is created  
 1499 to read:

1500 110.202 Declaration of policy.—This part creates the Civil  
 1501 Service within the State Personnel System as required by s. 14,  
 1502 Art. III of the State Constitution.

1503 Section 28. Section 110.205, Florida Statutes, is amended  
 1504 to read:

1505 110.205 Civil Career Service; exemptions.—

1506 (1) CIVIL SERVICE CAREER POSITIONS.—The Civil career  
 1507 Service to which this part applies includes all positions within  
 1508 the State Personnel System not specifically exempted by this  
 1509 section part, notwithstanding any other provisions of law the  
 1510 Florida Statutes to the contrary notwithstanding.

1511 (2) EXEMPT POSITIONS.—The ~~exempt positions that are not~~  
 1512 ~~covered by this part include the following~~ positions are exempt

1513 from the Civil Service:

1514 (a) Elected officers.—All officers of the executive branch  
 1515 elected by popular vote and persons appointed to fill vacancies  
 1516 in such offices. Unless otherwise fixed by law, the salary and  
 1517 benefits for an ~~any such~~ officer who serves as the head of an  
 1518 agency ~~a department~~ shall be set by the department in accordance  
 1519 with the rules of the Senior Management Service.

1520 (b) Legislative branch.—All members, officers, and  
 1521 employees of the legislative branch, except for the members,  
 1522 officers, and employees of the Florida Public Service  
 1523 Commission.

1524 (c) Judicial branch.—All members, officers, and employees  
 1525 of the judicial branch.

1526 (d) State universities.—All officers and employees of the  
 1527 state universities ~~and the academic personnel and academic~~  
 1528 ~~administrative personnel of the Florida School for the Deaf and~~  
 1529 ~~the Blind. In accordance with the provisions of s. 1002.36, the~~  
 1530 ~~salaries for academic personnel and academic administrative~~  
 1531 ~~personnel of the Florida School for the Deaf and the Blind shall~~  
 1532 ~~be set by the board of trustees for the school, subject only to~~  
 1533 ~~the approval of the State Board of Education.~~

1534 ~~(e) The Chief Information Officer in the Agency for~~  
 1535 ~~Enterprise Information Technology. Unless otherwise fixed by~~  
 1536 ~~law, the Agency for Enterprise Information Technology shall set~~  
 1537 ~~the salary and benefits of this position in accordance with the~~  
 1538 ~~rules of the Senior Management Service.~~

1539 (e) ~~(f)~~ Boards and commissions.—All members of state boards  
 1540 and commissions, however selected. Unless otherwise fixed by

1541 law, the salary and benefits for any full-time board or  
 1542 commission member shall be set by the department in accordance  
 1543 with the rules of the Senior Management Service.

1544 ~~(g) Judges, referees, and receivers.~~

1545 ~~(h) Patients or inmates in state institutions.~~

1546 (f)(i) Time-limited positions.—All positions that are  
 1547 established for a limited period of time for the purpose of  
 1548 conducting a special study, project, or investigation and any  
 1549 person paid from an other-personal-services appropriation.  
 1550 Unless otherwise fixed by law, the salaries for such positions  
 1551 and persons shall be set in accordance with rules established by  
 1552 the employing agency for other-personal-services payments  
 1553 pursuant to s. 112.907 ~~110.131~~.

1554 (g)(j) Executive-level positions.—The appointed  
 1555 secretaries and the State Surgeon General, assistant  
 1556 secretaries, deputy secretaries, and deputy assistant  
 1557 secretaries of all agencies ~~departments~~; the executive  
 1558 directors, assistant executive directors, deputy executive  
 1559 directors, and deputy assistant executive directors of all  
 1560 agencies ~~departments~~; the directors of all divisions and those  
 1561 positions determined by the department to have managerial  
 1562 responsibilities comparable to such positions, including ~~which~~  
 1563 ~~positions include~~, but are not limited to, program directors,  
 1564 assistant program directors, district administrators, deputy  
 1565 district administrators, general counsels, chief cabinet aides,  
 1566 public information administrators or comparable position for a  
 1567 cabinet officer, inspectors general, or legislative affairs  
 1568 directors ~~the Director of Central Operations Services of the~~



HB 1261

2012

1569 ~~Department of Children and Family Services,~~ the State  
 1570 Transportation Development Administrator, State Public  
 1571 Transportation and Modal Administrator, district secretaries,  
 1572 district directors of transportation development, transportation  
 1573 operations, transportation support, ~~and~~ the managers of the  
 1574 Department of Transportation offices specified in s.  
 1575 20.23(4)(b), the county health department directors and county  
 1576 health department administrators of the Department of Health,  
 1577 and the one additional position that may be designated by each  
 1578 agency and that reports directly to the agency head or to a  
 1579 position in the Senior Management Service and whose additional  
 1580 costs are absorbed from the existing budget of that agency ~~of~~  
 1581 ~~the Department of Transportation.~~ Unless otherwise fixed by law,  
 1582 the department shall set the salary and benefits of these  
 1583 positions in accordance with the rules of the Senior Management  
 1584 Service; ~~and the county health department directors and county~~  
 1585 ~~health department administrators of the Department of Health.~~

1586 ~~(k) The personal secretary to the incumbent of each~~  
 1587 ~~position exempted in paragraphs (a), (e), and (j). Unless~~  
 1588 ~~otherwise fixed by law, the department shall set the salary and~~  
 1589 ~~benefits of these positions in accordance with the rules of the~~  
 1590 ~~Selected Exempt Service.~~

1591 (h)-(l) Executive Office of the Governor.—All officers and  
 1592 employees in the office of the Governor, including all employees  
 1593 at the Governor's mansion, and employees within each separate  
 1594 budget entity, as defined in chapter 216, assigned to the  
 1595 Governor. Unless otherwise fixed by law, the salary and benefits  
 1596 of these positions shall be set by the department as follows:

HB 1261

2012

1597 1. The chief of staff, ~~the~~ assistant or deputy chief of  
 1598 staff, general counsel, Director of Legislative Affairs, chief  
 1599 inspector general, Director of Cabinet Affairs, Director of  
 1600 Press Relations, Director of Planning and Budgeting, director of  
 1601 administration, director of state-federal relations, Director of  
 1602 Appointments, Director of External Affairs, Deputy General  
 1603 Counsel, Governor's Liaison for Community Development, Chief of  
 1604 Staff for the Lieutenant Governor, Deputy Director of Planning  
 1605 and Budgeting, policy coordinators, and the director of each  
 1606 separate budget entity shall have their salaries and benefits  
 1607 established by the department in accordance with the rules of  
 1608 the Senior Management Service.

1609 2. The salaries and benefits of positions not established  
 1610 in subparagraph 1. ~~sub-subparagraph a.~~ shall be set by the  
 1611 employing agency. Salaries and benefits of employees whose  
 1612 professional training is comparable to that of licensed  
 1613 professionals under paragraph (n) ~~(r)~~, or whose administrative  
 1614 responsibility is comparable to a bureau chief shall be set in  
 1615 accordance with the rules of ~~by~~ the Selected Exempt Service. The  
 1616 department shall make the comparability determinations. Other  
 1617 employees shall have benefits set comparable to legislative  
 1618 staff, except leave shall be comparable to civil ~~career~~ service  
 1619 ~~as if career service~~ employees.

1620 (i) ~~(m)~~ Upper-management positions.—All assistant division  
 1621 director, deputy division director, and bureau chief positions  
 1622 in any agency ~~department~~, and those positions determined by the  
 1623 department to have managerial responsibilities comparable to  
 1624 such positions. Unless otherwise fixed by law, the salaries of

1625 benefits of these positions shall be set by the department in  
 1626 accordance with the rules of the Selected Exempt Service. These  
 1627 ~~which~~ include, but are not limited to:

1628 1. Positions in the Department of Health and the  
 1629 Department of Children and Family Services that are assigned  
 1630 primary duties of serving as the superintendent or assistant  
 1631 superintendent of an institution.

1632 2. Positions in the Department of Corrections that are  
 1633 assigned primary duties of serving as the warden, assistant  
 1634 warden, colonel, or major of an institution or that are assigned  
 1635 primary duties of serving as the circuit administrator or deputy  
 1636 circuit administrator.

1637 3. Positions in the Department of Transportation that are  
 1638 assigned primary duties of serving as regional toll managers and  
 1639 managers of offices, as defined in s. 20.23(4)(b) and (5)(c).

1640 4. Positions in the Department of Environmental Protection  
 1641 that are assigned the duty of an environmental administrator or  
 1642 program administrator.

1643 5. Positions in the Department of Health that are assigned  
 1644 the duties of environmental administrator, assistant county  
 1645 health department director, and county health department  
 1646 financial administrator.

1647 6. Positions in the Department of Children and Family  
 1648 Services that are assigned the duties of staff director,  
 1649 assistant staff director, district program manager, district  
 1650 program coordinator, district subdistrict administrator,  
 1651 district administrative services director, district attorney,  
 1652 and deputy director of central operations services.

1653  
 1654 ~~Unless otherwise fixed by law, the department shall set the~~  
 1655 ~~salary and benefits of the positions listed in this paragraph in~~  
 1656 ~~accordance with the rules established for the Selected Exempt~~  
 1657 ~~Service.~~

1658 (j) ~~(n)~~ Additional managerial or policymaking positions.

1659 1.a. ~~In addition to those positions exempted by other~~  
 1660 ~~paragraphs of this subsection, each agency ~~department~~ head may~~  
 1661 ~~designate a maximum of 20 policymaking or managerial positions,~~  
 1662 ~~as defined by the department and approved by the Administration~~  
 1663 ~~Commission, as being exempt from the Civil Career Service~~  
 1664 ~~System. Civil Career service employees who occupy a position~~  
 1665 ~~designated as a position in the Selected Exempt Service under~~  
 1666 ~~this paragraph may ~~shall have the right to~~ remain in the Civil~~  
 1667 ~~Career Service System by opting to serve in a position not~~  
 1668 ~~exempted by the employing agency. Unless otherwise fixed by law,~~  
 1669 ~~the department shall set the salary and benefits of these~~  
 1670 ~~positions in accordance with the rules of the Selected Exempt~~  
 1671 ~~Service; provided, however, that if the agency head determines~~  
 1672 ~~that the general counsel, chief Cabinet aide, public information~~  
 1673 ~~administrator or comparable position for a Cabinet officer,~~  
 1674 ~~inspector general, or legislative affairs director has both~~  
 1675 ~~policymaking and managerial responsibilities and if the~~  
 1676 ~~department determines that any such position has both~~  
 1677 ~~policymaking and managerial responsibilities, the salary and~~  
 1678 ~~benefits for each such position shall be established by the~~  
 1679 ~~department in accordance with the rules of the Senior Management~~  
 1680 ~~Service.~~

1681 ~~b. In addition, each department may designate one~~  
 1682 ~~additional position in the Senior Management Service if that~~  
 1683 ~~position reports directly to the agency head or to a position in~~  
 1684 ~~the Senior Management Service and if any additional costs are~~  
 1685 ~~absorbed from the existing budget of that department.~~

1686 2. If otherwise exempt from the Civil Service, employees  
 1687 of the Public Employees Relations Commission, the Commission on  
 1688 Human Relations, and the Unemployment Appeals Commission, upon  
 1689 the certification of their respective commission heads, may, if  
 1690 otherwise qualified, be provided for ~~under this paragraph~~ as  
 1691 members of the Senior Management Service, ~~if otherwise~~  
 1692 ~~qualified~~. However, the deputy general counsel of the Public  
 1693 Employees Relations Commission shall be compensated in  
 1694 accordance with the rules ~~as members~~ of the Selected Exempt  
 1695 Service.

1696 (k) Specialized managerial positions.-

1697 1. The department shall set the salary and benefits for  
 1698 the following positions in accordance with the rules of the  
 1699 Selected Exempt Service:

1700 a. Pursuant to s. 447.203(4), managerial positions that  
 1701 require performance of jobs that are not of a routine, clerical,  
 1702 or ministerial nature and require the exercise of independent  
 1703 judgment in the performance of such jobs and to which one or  
 1704 more of the following duties applies: formulate or assist in  
 1705 formulating policies applicable to bargaining unit employees;  
 1706 assist in the preparation for the conduct of collective  
 1707 bargaining negotiations; administer agreements resulting from  
 1708 collective bargaining negotiations; have a significant role in

HB 1261

2012

1709 personnel administration; have a significant role in employee  
1710 relations; or have a significant role in the preparation or  
1711 administration of the final budget for any public agency or  
1712 institution or a subdivision thereof, including having the  
1713 authority to select and approve among alternative expenditures  
1714 when necessary.

1715 b. Pursuant to s. 447.203(5), confidential positions that  
1716 require acting in a confidential capacity to assist or aid  
1717 managerial employees who are performing work and who have access  
1718 to information that would provide an employee labor organization  
1719 with an advantage at the bargaining table or in the  
1720 administration of collective bargaining agreements.

1721 c. All supervisory positions, including supervisor,  
1722 administrator, and director, that are customarily and regularly  
1723 assigned the duties of planning and directing the work of two or  
1724 more full-time employees or the equivalent; communicating with,  
1725 motivating, training, and evaluating employees; and hiring,  
1726 transferring, suspending, laying off, recalling, promoting,  
1727 discharging, assigning, rewarding, or disciplining subordinate  
1728 employees or, effectively, recommending such action.

1729 2. The exemptions provided in this paragraph are not  
1730 applicable to:

1731 a. Managerial and supervisory employees who are designated  
1732 as special risk or special risk administrative support;

1733 b. Attorneys who serve as administrative law judges  
1734 pursuant to s. 120.65 or for hearings conducted pursuant to s.  
1735 120.57(1)(a); or

1736 c. Professional health care providers as defined in s.

HB 1261

2012

1737 110.1054, unless otherwise collectively bargained.

1738 (l) (o) Public Service Commission.—The executive director,  
 1739 deputy executive director, general counsel, inspector general,  
 1740 official reporters, and division directors within the Public  
 1741 Service Commission and the personal secretary and personal  
 1742 assistant to each member of the Public Service Commission.  
 1743 Unless otherwise fixed by law, the salary and benefits of the  
 1744 executive director, deputy executive directors, general counsel,  
 1745 inspector general, and directors of all divisions and those  
 1746 positions determined to have managerial responsibilities  
 1747 comparable to such positions ~~Director of Administration,~~  
 1748 ~~Director of Appeals, Director of Auditing and Financial~~  
 1749 ~~Analysis, Director of Communications, Director of Consumer~~  
 1750 ~~Affairs, Director of Electric and Gas, Director of Information~~  
 1751 ~~Processing, Director of Legal Services, Director of Records and~~  
 1752 ~~Reporting, Director of Research, and Director of Water and Sewer~~  
 1753 shall be set ~~by the department~~ in accordance with the rules of  
 1754 the Senior Management Service. The salary and benefits of the  
 1755 personal secretary and the personal assistant of each member of  
 1756 the commission and the official reporters shall be set ~~by the~~  
 1757 ~~department~~ in accordance with the rules of the Selected Exempt  
 1758 Service, ~~notwithstanding any salary limitations imposed by law~~  
 1759 ~~for the official reporters.~~

1760 (m) (p) Department of Military Affairs.—

1761 1. All military personnel of the Department of Military  
 1762 Affairs. Unless otherwise fixed by law, the salary and benefits  
 1763 for ~~such~~ military personnel shall be set by the Department of  
 1764 Military Affairs in accordance with the appropriate military pay

HB 1261

2012

1765 | schedule.

1766 |       2. The salary and benefits of military police chiefs,  
1767 | military police officers, firefighter trainers, firefighter-  
1768 | rescuers, and electronic security system technicians shall be  
1769 | ~~have salary and benefits~~ the same as civil ~~career~~ service  
1770 | employees.

1771 |       ~~(g) The staff directors, assistant staff directors,~~  
1772 | ~~district program managers, district program coordinators,~~  
1773 | ~~district subdistrict administrators, district administrative~~  
1774 | ~~services directors, district attorneys, and the Deputy Director~~  
1775 | ~~of Central Operations Services of the Department of Children and~~  
1776 | ~~Family Services. Unless otherwise fixed by law, the Department~~  
1777 | ~~shall establish the pay band and benefits for these positions in~~  
1778 | ~~accordance with the rules of the Selected Exempt Service.~~

1779 |       (n) ~~(r)~~ Professional licensure.—All positions not otherwise  
1780 | exempt under this subsection that ~~which~~ require as a  
1781 | prerequisite to employment: licensure as a physician pursuant to  
1782 | chapter 458; r licensure as an osteopathic physician pursuant to  
1783 | chapter 459; r licensure as a chiropractic physician pursuant to  
1784 | chapter 460, including those positions that ~~which~~ are occupied  
1785 | by employees who are exempted from licensure pursuant to s.  
1786 | 409.352; licensure as an engineer pursuant to chapter 471, which  
1787 | are supervisory positions; or for 12 calendar months, which  
1788 | require as a prerequisite to employment that the employee have  
1789 | received the degree of Bachelor of Laws or Juris Doctor from a  
1790 | law school accredited by the American Bar Association and  
1791 | thereafter membership in The Florida Bar, except for any  
1792 | attorney who serves as an administrative law judge pursuant to



HB 1261

2012

1793 s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a).  
 1794 Unless otherwise fixed by law, the department shall set the  
 1795 salary and benefits for these positions in accordance with the  
 1796 rules of ~~established for~~ the Selected Exempt Service.

1797 (o) ~~(s)~~ Statewide Prosecutor.—The statewide prosecutor in  
 1798 charge of the Office of Statewide Prosecution of the Department  
 1799 of Legal Affairs and all employees in the office. The Department  
 1800 of Legal Affairs shall set the salary of these positions.

1801 (p) ~~(t)~~ Executive directors of regulatory boards and  
 1802 commissions.—The executive director of each board or commission  
 1803 established within the Department of Business and Professional  
 1804 Regulation or the Department of Health. Unless otherwise fixed  
 1805 by law, the department shall set ~~establish~~ the salary and  
 1806 benefits for these positions in accordance with the rules of  
 1807 ~~established for~~ the Selected Exempt Service.

1808 (q) ~~(u)~~ State Board of Administration.—All officers and  
 1809 employees of the State Board of Administration. The State Board  
 1810 of Administration shall set the salary ~~salaries~~ and benefits of  
 1811 these positions.

1812 ~~(v) Positions that are leased pursuant to a state employee~~  
 1813 ~~lease agreement expressly authorized by the Legislature pursuant~~  
 1814 ~~to s. 110.191.~~

1815 ~~(w) Managerial employees, as defined in s. 447.203(4),~~  
 1816 ~~confidential employees, as defined in s. 447.203(5), and~~  
 1817 ~~supervisory employees who spend the majority of their time~~  
 1818 ~~communicating with, motivating, training, and evaluating~~  
 1819 ~~employees, and planning and directing employees' work, and who~~  
 1820 ~~have the authority to hire, transfer, suspend, lay off, recall,~~

HB 1261

2012

1821 ~~promote, discharge, assign, reward, or discipline subordinate~~  
 1822 ~~employees or effectively recommend such action, including all~~  
 1823 ~~employees serving as supervisors, administrators, and directors.~~  
 1824 ~~Excluded are employees also designated as special risk or~~  
 1825 ~~special risk administrative support and attorneys who serve as~~  
 1826 ~~administrative law judges pursuant to s. 120.65 or for hearings~~  
 1827 ~~conducted pursuant to s. 120.57(1)(a). Additionally, registered~~  
 1828 ~~nurses licensed under chapter 464, dentists licensed under~~  
 1829 ~~chapter 466, psychologists licensed under chapter 490 or chapter~~  
 1830 ~~491, nutritionists or dietitians licensed under part X of~~  
 1831 ~~chapter 468, pharmacists licensed under chapter 465,~~  
 1832 ~~psychological specialists licensed under chapter 491, physical~~  
 1833 ~~therapists licensed under chapter 486, and speech therapists~~  
 1834 ~~licensed under part I of chapter 468 are excluded, unless~~  
 1835 ~~otherwise collectively bargained.~~

1836 (r) ~~(\*)~~ Justice Administration Commission and similar  
 1837 entities.—All officers and employees of the Justice  
 1838 Administrative Commission, Office of the State Attorney, Office  
 1839 of the Public Defender, regional offices of capital collateral  
 1840 counsel, offices of criminal conflict and civil regional  
 1841 counsel, and Statewide Guardian Ad Litem Office, including the  
 1842 circuit guardian ad litem programs and the Florida Clerks of  
 1843 Court Operations Corporation.

1844 (s) Florida School for the Deaf and the Blind.—The  
 1845 academic personnel and academic administrative personnel of the  
 1846 Florida School for the Deaf and the Blind. In accordance with s.  
 1847 1002.36, the salaries for academic personnel and academic  
 1848 administrative personnel of the Florida School for the Deaf and

1849 the Blind shall be set by the board of trustees for the school,  
 1850 subject only to the approval of the State Board of Education.

1851 (t) Miscellaneous positions.—

1852 1. The Chief Information Officer in the Agency for  
 1853 Enterprise Information Technology. Unless otherwise fixed by  
 1854 law, the agency shall set the salary and benefits of this  
 1855 position in accordance with the rules of the Senior Management  
 1856 Service.

1857 2. The chief inspector of the boiler inspection program of  
 1858 the Department of Financial Services. The pay band of this  
 1859 position shall be set by the Department of Management Services  
 1860 in accordance with the classification and pay plan established  
 1861 for the Selected Exempt Service.

1862 3. The personal assistant to the incumbent of each  
 1863 position exempted in subparagraph 1., paragraph (a), or  
 1864 paragraph (g). Unless otherwise fixed by law, the department  
 1865 shall set the salary and benefits of these positions in  
 1866 accordance with the rules of the Selected Exempt Service.

1867 4. Positions that are leased pursuant to a state employee  
 1868 lease agreement expressly authorized by the Legislature pursuant  
 1869 to s. 112.919.

1870 5. Judges, referees, and receivers of the executive  
 1871 branch.

1872 6. Positions held by patients or inmates in state  
 1873 institutions.

1874 ~~(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—~~  
 1875 ~~Employees of the Department of Law Enforcement shall be subject~~  
 1876 ~~to the provisions of s. 110.227, except in matters relating to~~

HB 1261

2012

1877 ~~transfer.~~

1878 ~~(4) DEFINITION OF DEPARTMENT. When used in this section,~~  
 1879 ~~the term "department" shall mean all departments and commissions~~  
 1880 ~~of the executive branch, whether created by the State~~  
 1881 ~~Constitution or chapter 20; the office of the Governor; and the~~  
 1882 ~~Public Service Commission; however, the term "department" shall~~  
 1883 ~~mean the Department of Management Services when used in the~~  
 1884 ~~context of the authority to establish pay bands and benefits.~~

1885 ~~(3)(5) POSITIONS EXEMPTED BY OTHER STATUTES.~~—If any  
 1886 position is exempted from the Civil ~~career~~ Service by any other  
 1887 statute and the personnel system to which that position is  
 1888 assigned is not specifically included in the statute, the  
 1889 position shall be placed in the Selected Exempt Service, and the  
 1890 department shall set ~~establish~~ the pay band and benefits for  
 1891 that position in accordance with the rules of the Selected  
 1892 Exempt Service.

1893 (4) RULES.—The department may adopt rules necessary to  
 1894 administer this section.

1895 ~~(6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY PROGRAM,~~  
 1896 ~~DEPARTMENT OF FINANCIAL SERVICES. In addition to those positions~~  
 1897 ~~exempted from this part, there is hereby exempted from the~~  
 1898 ~~Career Service System the chief inspector of the boiler~~  
 1899 ~~inspection program of the Department of Financial Services. The~~  
 1900 ~~pay band of this position shall be established by the Department~~  
 1901 ~~of Management Services in accordance with the classification and~~  
 1902 ~~pay plan established for the Selected Exempt Service.~~

1903 ~~(7) CARRYING LEAVE FORWARD. If an employee is transferred~~  
 1904 ~~or otherwise moves from the Career Service System into the~~

1905 ~~Selected Exempt Service, all of the employee's unused annual~~  
 1906 ~~leave, unused sick leave, and unused compensatory leave shall~~  
 1907 ~~carry forward with the employee.~~

1908 Section 29. Section 110.208, Florida Statutes, is created  
 1909 to read:

1910 110.208 Classification system.—The department shall  
 1911 establish and maintain a uniform classification system  
 1912 applicable to all positions in the Civil Service and shall be  
 1913 responsible for the overall coordination, review, and  
 1914 maintenance of the system. A position may not be filled until it  
 1915 has been classified in accordance with the system.

1916 (1) The system must include:

1917 (a) A position classification system using job families,  
 1918 occupational groups, and a broadband level structure for each  
 1919 occupation within an occupational group.

1920 (b) A pay plan that provides broad-based pay bands for  
 1921 each occupational group.

1922 (2) In establishing and administering the system, the  
 1923 department:

1924 (a) Shall develop occupation profiles necessary for the  
 1925 establishment of new occupations or for the revision of existing  
 1926 occupations and shall establish the appropriate occupation title  
 1927 and broadband level code for each occupation. The occupation  
 1928 profiles, titles, and codes are not rules as defined in s.  
 1929 120.52.

1930 (b) Shall be responsible for conducting periodic studies  
 1931 and surveys to ensure that the classification system is  
 1932 maintained on a current basis.

1933 (c) May review in a postaudit capacity the action taken by  
 1934 an agency in classifying or reclassifying a position.

1935 (d) Shall effect a classification change on any  
 1936 classification or reclassification action taken by an agency if  
 1937 the action taken by the agency was not based on the duties and  
 1938 responsibilities officially assigned the position as they relate  
 1939 to the concepts and description contained in the official  
 1940 occupation profile and the level definition provided in the  
 1941 occupational group characteristics adopted by the department.

1942 (e) Shall adopt rules necessary to administer the  
 1943 classification system.

1944 (3) Each state agency is responsible for the day-to-day  
 1945 application of the classification system established by the  
 1946 department.

1947 (a) The agency shall maintain an up-to-date position  
 1948 description for each authorized and established position  
 1949 assigned to the agency. The position description must include an  
 1950 accurate description of assigned duties and responsibilities and  
 1951 other pertinent information relating to a position and serves as  
 1952 a record of the official assignment of duties to the position.  
 1953 The description shall be used in comparing positions to ensure  
 1954 the uniformity of classifications.

1955 (b) The agency may classify positions authorized by the  
 1956 Legislature or authorized pursuant to s. 216.262, classify  
 1957 positions that are added in lieu of positions deleted pursuant  
 1958 to s. 216.262, and reclassify established positions.  
 1959 Classification and reclassification actions taken by an agency  
 1960 must be within the classification system occupations established

HB 1261

2012

1961 by the department, shall be funded within the limits of  
1962 currently authorized appropriations, and must be in accordance  
1963 with the uniform procedures established by the department.

1964 Section 30. Section 110.2085, Florida Statutes, is created  
1965 to read:

1966 110.2085 Pay plan.—

1967 (1) The department shall establish and maintain an  
1968 equitable pay plan that applies to all positions in the Civil  
1969 Service and shall be responsible for the overall review,  
1970 coordination, and administration of the pay plan.

1971 (2) The department shall provide market-based pay bands  
1972 for occupational groups and establish guidelines for state  
1973 agencies to use when moving employees through such pay bands.

1974 (a) The agencies may determine the appropriate salary  
1975 within the pay bands using the guidelines developed by the  
1976 department. Such pay bands, and the assignment of broadband  
1977 levels to positions, are not rules as defined in s. 120.52.

1978 (b) The department, in consultation with the Executive  
1979 Office of the Governor and the legislative appropriations  
1980 committees, shall conduct compensation surveys as necessary for  
1981 the purpose of achieving an equitable, competitive, market-based  
1982 pay policy.

1983 (3) The department shall establish rules for the  
1984 administration of pay additives and shall delegate to the state  
1985 agencies, where appropriate, the authority to implement pay  
1986 additives. The agency must use pay additives, as appropriate,  
1987 within the guidelines established by the department and  
1988 consistent with directions contained in the General

1989 Appropriations Act.

1990 (a) The following pay additives are authorized:

1991 1. Shift differentials.

1992 2. On call.

1993 3. Hazardous duty.

1994 4. Lead-worker duty.

1995 5. Temporary special duties, general.

1996 6. Temporary special duties, absent coworker.

1997 7. Trainer duties.

1998 8. Competitive area differentials.

1999 9. Critical market pay.

2000 (b)1. Each state agency shall include in its legislative

2001 budget request a proposed written plan for implementing

2002 temporary special duty and general pay additives for the next

2003 fiscal year.

2004 2. Any proposed revision to an approved plan which becomes

2005 necessary during the fiscal year must be submitted by the agency

2006 to the department for review and recommendation to the Executive

2007 Office of the Governor. Such revisions may be implemented only

2008 after approval by the Executive Office of the Governor. Any

2009 proposed revision is deemed to be an action subject to s.

2010 216.177.

2011 (c) A new competitive area differential or a new critical

2012 market pay additive may not be implemented unless the department

2013 has reviewed and recommended such action and the Legislature has

2014 provided specific authority to implement such action. This

2015 paragraph applies to any increase in the level of competitive

2016 area differentials and critical market pay additives and to the



HB 1261

2012

2017 initial establishment and implementation of a competitive area  
 2018 differential or critical market pay additive not in effect as of  
 2019 January 1, 2012.

2020 (d) An agency may implement the pay additives set forth in  
 2021 subparagraphs (a)1., 2., 3., 4., and 6. as necessary to  
 2022 accomplish the mission of the agency and in accordance with the  
 2023 department's rules, any instructions contained in the General  
 2024 Appropriations Act, and any applicable collective bargaining  
 2025 agreement.

2026 (e) The department shall annually provide to the Executive  
 2027 Office of the Governor and the Legislature a summary report of  
 2028 the pay additives implemented pursuant to this section.

2029 (4) A state agency may implement salary increase and  
 2030 decrease corrections due to administrative errors.

2031 (5) The department may adopt rules necessary to administer  
 2032 this section.

2033 Section 31. Section 110.211, Florida Statutes, is amended  
 2034 to read:

2035 110.211 Recruitment.—

2036 (1) Recruiting shall be planned and carried out to ensure  
 2037 ~~in a manner that assures~~ open competition based upon current and  
 2038 projected ~~employing~~ agency needs, taking into consideration the  
 2039 number and types of positions to be filled and the labor market  
 2040 conditions, with special emphasis placed on recruiting efforts  
 2041 that ~~to~~ attract minorities, women, or other groups ~~that are~~  
 2042 underrepresented in the workforce of a state ~~the employing~~  
 2043 agency.

2044 (2) Recruiting efforts to fill current or projected

2045 vacancies shall be carried out in the sound discretion of the  
 2046 agency head.

2047 (3) Recruiting ~~shall seek efficiency in advertising and~~  
 2048 may be assisted by a contracted vendor ~~responsible for~~  
 2049 ~~maintenance of the personnel data.~~

2050 (4) The department may adopt rules necessary to administer  
 2051 this section.

2052 ~~(4) All recruitment literature involving state position~~  
 2053 ~~vacancies shall contain the phrase "An Equal Opportunity~~  
 2054 ~~Employer/Affirmative Action Employer."~~

2055 Section 32. Section 110.213, Florida Statutes, is amended  
 2056 to read:

2057 110.213 Selection.—

2058 (1) Selection for appointment from among the ~~most~~  
 2059 qualified candidates is ~~shall be~~ the sole responsibility of the  
 2060 state employing agency. ~~All new employees must successfully~~  
 2061 ~~complete at least a 1-year probationary period before attainment~~  
 2062 ~~of permanent status.~~

2063 (2) ~~Selection shall reflect efficiency and simplicity in~~  
 2064 ~~hiring procedures.~~ The agency head or a ~~his or her~~ designee  
 2065 shall ~~be required to~~ document the qualifications of the selected  
 2066 candidate to ensure that the candidate meets the ~~minimum~~  
 2067 requirements ~~as~~ specified by the ~~employing~~ agency; it meets the  
 2068 licensure, certification, or registration requirements, if any,  
 2069 ~~as~~ specified by statute; it and possesses the requisite knowledge,  
 2070 skills, and abilities for the position. No other documentation  
 2071 or justification is ~~shall be~~ required before ~~prior to~~ selecting  
 2072 a candidate for a position.

HB 1261

2012

2073           (3) The department may adopt rules necessary to administer  
 2074 this section.

2075           Section 33. Section 110.2135, Florida Statutes, is amended  
 2076 to read:

2077           110.2135 Veterans' preference ~~in employment, reemployment,~~  
 2078 ~~promotion, and retention.~~-

2079           (1) Preference in employment, reemployment, promotion, and  
 2080 retention shall be given to an eligible veteran pursuant to ss.  
 2081 295.07, 295.08, 295.085, and 295.09 if as long as the veteran  
 2082 meets the minimum eligibility requirements and has the  
 2083 knowledge, skills, and abilities required for the particular  
 2084 position.

2085           (2) A disabled veteran employed as the result of being  
 2086 placed at the top of the appropriate employment list under ~~the~~  
 2087 ~~provisions of~~ s. 295.08 or s. 295.085 shall be appointed for a  
 2088 probationary period of 1 year. At the end of such period, if the  
 2089 work of the veteran has been satisfactorily performed, the  
 2090 veteran will acquire merit permanent employment status in his or  
 2091 her position and ~~will~~ be subject to the employment rules of the  
 2092 department ~~of Management Services~~ and the ~~veteran's~~ employing  
 2093 agency employing the veteran.

2094           (3) The department may adopt rules necessary to administer  
 2095 this section.

2096           Section 34. Section 110.215, Florida Statutes, is amended  
 2097 to read:

2098           110.215 Examinations and other employment qualification  
 2099 assessments administered to persons having disabilities.-

2100           (1) The purpose of this section is to further the policy

HB 1261

2012

2101 of the State Personnel System to encourage and assist persons  
 2102 having disabilities to achieve maximum personal and vocational  
 2103 independence through useful and productive gainful employment by  
 2104 eliminating unwarranted barriers to their qualifying  
 2105 competitively for civil ~~state-career~~ service jobs.

2106 (2) As used in this section, the term:

2107 ~~(a) "Agency" includes each department and agency of the~~  
 2108 ~~state.~~

2109 ~~(a)~~ ~~(b)~~ "Disability" means, with respect to an individual,  
 2110 a physical or mental impairment that substantially limits one or  
 2111 more of the major life activities of the individual, or a record  
 2112 of having such an impairment, or being regarded as having such  
 2113 an impairment.

2114 ~~(b)~~ ~~(e)~~ "Examination" includes employment tests and other  
 2115 structured, systematic instruments used to assess the essential  
 2116 knowledge, skills, abilities, minimum qualifications, and other  
 2117 job-related requirements possessed by an applicant as a basis  
 2118 for any employment decision by an agency.

2119 (3) An applicant for employment within the Civil State  
 2120 ~~Career Service System~~ who has a disability that impairs sensory,  
 2121 speaking, or manual skills may require an agency to administer  
 2122 an ~~any~~ examination to him or her in a format and manner that  
 2123 does not require use of an impaired skill, unless the test is  
 2124 designed to measure that skill. An applicant may request a  
 2125 reasonable accommodation in a test format on the basis of a  
 2126 disability.

2127 (4) The department may adopt rules necessary to administer  
 2128 this section.

2129 Section 35. Section 110.217, Florida Statutes, is amended  
 2130 to read:

2131 110.217 Appointment actions and status ~~Appointments and~~  
 2132 ~~promotion.~~—

2133 (1)(a) ~~The department, in consultation with agencies that~~  
 2134 ~~must comply with these rules,~~ shall develop uniform rules  
 2135 regarding original appointment, promotion, demotion,  
 2136 reassignment, lateral transfer, separation, and status which  
 2137 must be used by state ~~employing~~ agencies. ~~Such rules must be~~  
 2138 ~~approved by the Administration Commission before their adoption~~  
 2139 ~~by the department.~~

2140 ~~(b) Employing agencies may seek exceptions to these~~  
 2141 ~~uniform rules by filing a petition with the Administration~~  
 2142 ~~Commission. The Administration Commission shall approve an~~  
 2143 ~~exception when the exception is necessary to conform to any~~  
 2144 ~~requirement imposed as a condition precedent to receipt of~~  
 2145 ~~federal funds or to permit persons in this state to receive tax~~  
 2146 ~~benefits under federal law, or as required for the most~~  
 2147 ~~efficient operation of the agency as determined by the~~  
 2148 ~~Administration Commission. The reasons for the exception must be~~  
 2149 ~~published in the Florida Administrative Weekly.~~

2150 ~~(c) Agency rules that provide exceptions to the uniform~~  
 2151 ~~rules may not be filed with the Department of State unless the~~  
 2152 ~~Administration Commission has approved the exceptions. Each~~  
 2153 ~~agency that adopts rules that provide exceptions to the uniform~~  
 2154 ~~rules or that must comply with statutory requirements that~~  
 2155 ~~conflict with the uniform rules must have a separate chapter~~  
 2156 ~~published in the Florida Administrative Code that delineates~~

HB 1261

2012

2157 ~~clearly the provisions of the agency's rules which provide~~  
2158 ~~exceptions or are based upon a conflicting statutory~~  
2159 ~~requirement. Each alternative chosen from those authorized by~~  
2160 ~~the uniform rules must be specified. Each chapter must be~~  
2161 ~~organized in the same manner as the uniform rules.~~

2162 (2) An employee appointed on probationary status shall  
2163 attain merit status in the position upon successful completion  
2164 of at least a 1-year probationary period.

2165 ~~(2) Each employing agency shall have the responsibility~~  
2166 ~~for the establishment and maintenance of rules and guidelines~~  
2167 ~~for determining eligibility of applicants for appointment to~~  
2168 ~~positions in the career service.~~

2169 ~~(3) Eligibility shall be based on possession of required~~  
2170 ~~minimum qualifications for the job class and any required entry-~~  
2171 ~~level knowledge, skills, and abilities, and any certification~~  
2172 ~~and licensure required for a particular position.~~

2173 ~~(4) The employing agency shall be responsible for~~  
2174 ~~developing an employee career advancement program which shall~~  
2175 ~~assure consideration of qualified permanent employees in the~~  
2176 ~~agency or career service who apply. However, such program shall~~  
2177 ~~also include provisions to bring persons into the career service~~  
2178 ~~through open competition. Promotion appointments shall be~~  
2179 ~~subject to postaudit by the department.~~

2180 ~~(5) The department shall adopt any rules necessary to~~  
2181 ~~implement the provisions of this section. The rules must be~~  
2182 ~~approved by a majority vote of the Administration Commission~~  
2183 ~~prior to their adoption by the department.~~

2184 Section 36. Section 110.219, Florida Statutes, is amended

HB 1261

2012

2185 to read:

2186 110.219 Attendance and leave; general policies.—

2187 (1) The workday for each full-time ~~state~~ employee shall be

2188 8 hours or as otherwise authorized ~~justified~~ by the agency head.

2189 (2) Overtime may be required for any employee.

2190 (3) The granting of any leave of absence, with or without

2191 pay, shall be in accordance with applicable state or federal

2192 laws and the rules of the State Personnel System ~~writing and~~

2193 ~~shall be approved by the agency head.~~ An employee who, at the

2194 discretion of the agency, is granted a leave of absence ~~remains~~

2195 ~~with or without pay shall be~~ an employee of the agency ~~state~~

2196 while on such leave and shall be returned to the same or

2197 comparable position ~~or a different position in the same class~~

2198 ~~and same work location~~ upon termination of the approved leave of

2199 absence in accordance with the rules of the State Personnel

2200 System. ~~The agency head and the employee may agree in writing to~~

2201 ~~other conditions and terms under which the leave is to be~~

2202 ~~granted.~~

2203 ~~(4) Each agency shall keep an accurate record of all hours~~

2204 ~~of work performed by each employee, as well as a complete and~~

2205 ~~accurate record of all authorized leave which is approved. The~~

2206 ~~ultimate responsibility for the accuracy and proper maintenance~~

2207 ~~of all attendance and leave records shall be with the agency~~

2208 ~~head.~~

2209 ~~(4)(5) Rules shall be adopted by~~ The department shall

2210 adopt rules to administer ~~in cooperation and consultation with~~

2211 ~~the agencies to implement the provisions of this section;~~

2212 ~~however, such rules must be approved by the Administration~~

HB 1261

2012

2213 ~~Commission prior to their adoption.~~ Such rules must provide for,  
 2214 but need not be limited to:

2215 (a) The maximum responsibility and authority resting with  
 2216 each agency head to administer attendance and leave matters in  
 2217 the agency within the parameters of the rules ~~adopted by the~~  
 2218 ~~department.~~

2219 (b) ~~Creditable service in which 1 month of Service credit~~  
 2220 ~~as it relates to the accrual and payment of leave is awarded for~~  
 2221 ~~each calendar month that the employee is on the payroll of a~~  
 2222 ~~state agency or during which the employee is on authorized leave~~  
 2223 ~~without pay.~~

2224 (c) Holidays as provided in s. 112.927 ~~110.117.~~

2225 (d) Overtime provisions.

2226 (e) Annual leave provisions.

2227 (f) Sick leave provisions.

2228 (g) Parental leave provisions.

2229 (h) Family medical leave provisions.

2230 (i) Disability leave provisions.

2231 (j) Compulsory disability leave provisions.

2232 (k) Administrative leave provisions.

2233 (l) Military leave provisions.

2234 (m) Educational leave with pay provisions.

2235 (n) Leave of absence without pay provisions.

2236 ~~(6) The leave benefits provided to Senior Management~~  
 2237 ~~Service employees shall not exceed those provided to employees~~  
 2238 ~~in the Selected Exempt Service.~~

2239 (5) ~~(7)~~ Each December, a civil ~~permanent career~~ service  
 2240 employee who has merit status, or who currently has probationary



HB 1261

2012

2241 status due to a promotion that was immediately preceded by the  
 2242 attainment of merit status, is ~~shall be~~ entitled, subject to  
 2243 available funds, to a payout of up to 24 hours of unused annual  
 2244 leave if the ~~as follows:~~

2245 ~~(a) A permanent career service employee~~ has ~~must~~ have an  
 2246 annual leave balance of at least ~~no less than~~ 24 hours, after  
 2247 the payout, ~~in order to qualify for this benefit.~~

2248 ~~(6)(b) A civil~~ No permanent career service employee may  
 2249 not ~~shall~~ receive a payout of greater than 240 hours over the  
 2250 course of the employee's career with the civil service state,  
 2251 including any leave received at the time of separation.

2252 Section 37. Section 110.224, Florida Statutes, is amended  
 2253 to read:

2254 110.224 ~~Public Employee performance evaluation system.~~ An  
 2255 ~~A public employee performance evaluation system~~ shall be  
 2256 established as a basis for evaluating and improving the  
 2257 performance of the state's workforce, to inform employees of  
 2258 strong and weak points in the employee's performance, to  
 2259 identify training needs, and to award lump-sum bonuses and other  
 2260 performance-based incentives in accordance with s. 110.1245 or  
 2261 other provisions of law ~~110.1245(2).~~

2262 (1) Upon original appointment, promotion, demotion, or  
 2263 reassignment, a job description of the assigned position  
 2264 ~~assigned~~ must be made available to the civil ~~career~~ service  
 2265 employee. The job description may be made available in an  
 2266 electronic format.

2267 (2) Each employee shall ~~must~~ have an ~~a~~ performance  
 2268 evaluation conducted at least annually that involves both, ~~and~~

HB 1261

2012

2269 ~~the employee must receive~~ an oral and written assessment of his  
 2270 or her performance ~~evaluation~~. The ~~performance~~ evaluation may  
 2271 include a plan of action for improvement of the employee's  
 2272 performance based on the work expectations or performance  
 2273 standards applicable to the position as determined by the agency  
 2274 head.

2275 (3) The department may adopt rules necessary to administer  
 2276 this section ~~the public employee performance evaluation system~~  
 2277 ~~which establish procedures for performance evaluation, review~~  
 2278 ~~periods, and forms.~~

2279 Section 38. Section 110.227, Florida Statutes, is amended  
 2280 to read:

2281 110.227 Suspensions, dismissals, reductions in pay,  
 2282 demotions, layoffs, transfers, and grievances.—

2283 (1) An ~~Any~~ employee who has satisfactorily completed at  
 2284 least a 1-year probationary period in his or her current  
 2285 position may be suspended or dismissed only for cause. Cause  
 2286 includes ~~shall include~~, but is not limited to, poor performance,  
 2287 negligence, inefficiency or inability to perform assigned  
 2288 duties, insubordination, violation of ~~the provisions of~~ law or  
 2289 agency rules, conduct unbecoming a public employee, misconduct,  
 2290 habitual drug abuse, or conviction of any crime. The agency head  
 2291 shall ensure that all employees of the agency have reasonable  
 2292 access to the agency's personnel policies and procedures ~~manual~~.

2293 (2) ~~(a)~~ The department shall establish rules and procedures  
 2294 for the suspension, reduction in pay, transfer, layoff,  
 2295 demotion, and dismissal of employees in the Civil ~~career~~  
 2296 Service.

HB 1261

2012

2297            (a) Except with regard to law enforcement or correctional  
 2298 officers, firefighters, or professional health care providers,  
 2299 rules regarding layoff procedures may ~~shall~~ not include any  
 2300 provision ~~system~~ whereby a civil ~~career~~ service employee with  
 2301 greater seniority has the option of selecting a different  
 2302 position not being eliminated, but either vacant or already  
 2303 occupied by an employee who has ~~of~~ less seniority, and taking  
 2304 that position, commonly referred to as "bumping."

2305            (b) For the implementation of layoffs ~~as defined in s.~~  
 2306 ~~110.107~~, the department shall develop rules requiring retention  
 2307 of the agency's employees based upon objective measures that  
 2308 give consideration to comparative merit, demonstrated skills,  
 2309 the employee's experience, and the employee's length of service.  
 2310 ~~Such rules shall be approved by the Administration Commission~~  
 2311 ~~before their adoption by the department.~~

2312            (3) ~~(a)~~ With regard to law enforcement or correctional  
 2313 officers, firefighters, or professional health care providers: 7  
 2314 ~~when~~

2315            (a) If a layoff becomes necessary, such layoff shall be  
 2316 conducted within the competitive area identified by the agency  
 2317 head and approved by the department ~~of Management Services~~. Such  
 2318 competitive area shall be established taking into consideration  
 2319 the similarity of work; the organizational unit, which may be by  
 2320 agency, department, division, bureau, or other organizational  
 2321 unit; and the commuting area for the affected work affected.

2322            ~~(b) With regard to law enforcement or correctional~~  
 2323 ~~officers, firefighters, or professional health care providers,~~  
 2324 Layoff procedures shall be developed to establish the relative

HB 1261

2012

2325 merit and fitness of employees and must ~~shall~~ include a formula  
 2326 for uniform application among all employees in the competitive  
 2327 area, taking into consideration the type of appointment, the  
 2328 length of service, and the evaluations of the employee's  
 2329 performance within the last 5 years of employment.

2330 (4) A grievance process shall be available to civil ~~career~~  
 2331 service employees who have satisfactorily completed at least a  
 2332 1-year probationary period in their current positions. A  
 2333 grievance ~~is defined as the dissatisfaction that~~ occurs when an  
 2334 employee believes that any condition affecting the employee is  
 2335 unjust, inequitable, or a hindrance to the effective performance  
 2336 of his or her job duties ~~operation~~. Claims of discrimination and  
 2337 sexual harassment or claims related to suspensions, reductions  
 2338 in pay, demotions, and dismissals are not subject to the civil  
 2339 ~~career~~ service grievance process. The following procedures ~~shall~~  
 2340 apply to any grievance filed pursuant to this subsection, except  
 2341 that all timeframes may be extended in writing by mutual  
 2342 agreement:

2343 (a) Step One.—The employee must ~~may~~ submit a signed,  
 2344 written grievance on a form provided by the agency to his or her  
 2345 supervisor within 14 calendar days following the occurrence of  
 2346 the event giving rise to the grievance. The supervisor must meet  
 2347 with the employee to discuss the grievance and provide a written  
 2348 response to the employee within 7 business days following  
 2349 receipt of the grievance.

2350 (b) Step Two.—If the employee is dissatisfied with the  
 2351 response of his or her supervisor, the employee must ~~may~~ submit  
 2352 the written grievance to the agency head or ~~his or her~~ designee

2353 within 7 business days following receipt of the supervisor's  
 2354 written response. The agency head's ~~head or his or her~~ designee  
 2355 may ~~must~~ meet with the employee to discuss the grievance within  
 2356 5 business days following receipt of the grievance. The agency  
 2357 head or his or her designee must respond in writing to the  
 2358 employee within 5 business days following receipt of the  
 2359 grievance ~~meeting~~. The written decision of the agency head or  
 2360 designee is ~~shall be the~~ final and binding ~~authority~~ for all  
 2361 grievances filed pursuant to this subsection. Such grievances  
 2362 may not be appealed beyond Step Two.

2363 (5) ~~(a)~~ A civil ~~career~~ service employee who has  
 2364 satisfactorily completed at least a 1-year probationary period  
 2365 in his or her current position and who is subject to a  
 2366 suspension, reduction in pay, demotion, involuntary transfer of  
 2367 more than 50 miles by highway, or dismissal shall receive  
 2368 written notice of such action at least 10 calendar days before  
 2369 ~~prior to~~ the date such action is ~~to be~~ taken.

2370 (a) Subsequent to such notice, and before ~~prior to~~ the  
 2371 date the action is ~~to be~~ taken, the affected employee shall be  
 2372 given an opportunity to appear before a designated agency  
 2373 official to rebut ~~the agency or official taking the action to~~  
 2374 ~~answer orally and in writing~~ the charges against him or her  
 2375 orally or in writing. The notice ~~to the employee required by~~  
 2376 ~~this paragraph~~ may be delivered to the employee personally or  
 2377 may be sent by certified mail with return receipt requested.  
 2378 Such actions are ~~shall be~~ appealable to the Public Employees  
 2379 Relations Commission as provided in subsection (6). Written  
 2380 notice of ~~any~~ such appeal shall be filed by the employee with

2381 the commission within 21 calendar days after the date on which  
 2382 the notice of suspension, reduction in pay, demotion,  
 2383 involuntary transfer of more than 50 miles by highway, or  
 2384 dismissal is received by the employee. Merit status that was  
 2385 attained in a previous position does not give rise to appeal  
 2386 rights under this section.

2387 (b) In extraordinary situations such as when the retention  
 2388 of a civil ~~career~~ service employee may ~~who has satisfactorily~~  
 2389 ~~completed at least a 1-year probationary period in his or her~~  
 2390 ~~current position would~~ result in damage to state property, may  
 2391 ~~would~~ be detrimental to the best interest of the state, or may  
 2392 ~~would~~ result in harm ~~injury~~ to the employee, a fellow employee,  
 2393 or some other person, such employee may be suspended or  
 2394 dismissed without 10 calendar days' prior notice ~~if, provided~~  
 2395 ~~that~~ written or oral notice of such action, including evidence  
 2396 ~~of~~ the reasons therefor, and an opportunity to rebut the charges  
 2397 are furnished to the employee before ~~prior to~~ such dismissal or  
 2398 suspension. Such notice may be delivered to the employee  
 2399 personally or may be sent by certified mail with return receipt  
 2400 requested. ~~Agency compliance with the foregoing procedure~~  
 2401 ~~requiring notice, evidence, and an opportunity for rebuttal must~~  
 2402 ~~be substantiated.~~ Any employee who is suspended or dismissed  
 2403 pursuant to ~~the provisions of~~ this paragraph may appeal to the  
 2404 Public Employees Relations Commission as provided in subsection  
 2405 (6). Written notice of any such appeal shall be filed with the  
 2406 commission by the employee within 21 calendar days after the  
 2407 date on which the notice of suspension, ~~reduction in pay,~~  
 2408 ~~demotion,~~ or dismissal is received by the employee.

HB 1261

2012

2409 (6) The following procedures ~~shall~~ apply to appeals filed  
 2410 pursuant to subsection (5) with the Public Employees Relations  
 2411 Commission, ~~hereinafter referred to as the commission:~~

2412 (a) The commission must conduct a hearing within 60  
 2413 calendar days following the filing of a notice of appeal. An ~~No~~  
 2414 extension of time for the hearing may not exceed 30 calendar  
 2415 days, absent exceptional circumstances, and ~~no extension of time~~  
 2416 may not be granted without the consent of all parties. Discovery  
 2417 may be granted only upon the showing of extraordinary  
 2418 circumstances. A party requesting discovery must ~~shall~~  
 2419 demonstrate a substantial need for the information requested and  
 2420 an inability to obtain relevant information by other means.  
 2421 Except where inconsistent with the requirements of this  
 2422 subsection, ~~the provisions of~~ s. 447.503(4) and (5) and chapter  
 2423 120 apply to proceedings held pursuant to this subsection.

2424 (b) A person may represent himself or herself in  
 2425 proceedings before the commission or may be represented by legal  
 2426 counsel or by an ~~any~~ individual who qualifies as a  
 2427 representative pursuant to rules adopted by the commission.

2428 (c) If the commission finds that cause did not exist for  
 2429 the agency action, the commission shall reverse the decision of  
 2430 the agency head and the employee shall be reinstated with or  
 2431 without back pay. If the commission finds that cause existed for  
 2432 the agency action, the commission shall affirm the decision of  
 2433 the agency head. The commission may not reduce the penalty  
 2434 imposed by the agency head, except in the case of law  
 2435 enforcement or correctional officers, firefighters, and  
 2436 professional health care providers, if the commission makes

2437 specific written findings of mitigation.

2438 (d) A recommended order shall be issued by the hearing  
 2439 officer within 30 days following the hearing. Exceptions to the  
 2440 recommended order must ~~shall~~ be filed within 15 days after the  
 2441 recommended order is issued. The final order shall be filed by  
 2442 the commission within ~~no later than~~ 45 calendar days after the  
 2443 hearing or after the filing of exceptions or oral arguments if  
 2444 granted.

2445 (e) Final orders issued by the commission pursuant to  
 2446 paragraph (d) are ~~shall be~~ reviewable as provided in s. 447.504.

2447 (7) Other than for law enforcement or correctional  
 2448 officers, firefighters, and professional health care providers,  
 2449 each suspension, dismissal, demotion, or reduction in pay must  
 2450 be reviewed without consideration of any other case or set of  
 2451 facts.

2452 (8) Notwithstanding subsection (1), a civil career service  
 2453 employee who is serving a probationary period in a position to  
 2454 which he or she has been promoted may be removed from that  
 2455 promotional position at any time during the probationary period  
 2456 for inefficiency or inability to perform assigned duties but  
 2457 must be returned to his or her former position, or a comparable  
 2458 position, if such a position is vacant. If such a position is  
 2459 not available, before dismissal, the agency shall make a  
 2460 reasonable effort to retain the employee in another vacant  
 2461 position. This subsection does not apply to other dismissals  
 2462 ~~terminations~~ for cause as described in subsection (1), nor does  
 2463 it create a right to "bump" an employee from an occupied  
 2464 position as described in paragraph (2) (a). An employee who is



2465 removed from a promotional position under this subsection does  
 2466 not have grievance rights under subsection (4) or appeal rights  
 2467 under subsection (5) due to the employee's probationary status.

2468 (9) Employees of the Department of Law Enforcement are  
 2469 subject to this section, except in matters relating to transfer.

2470 (10) The department may adopt rules necessary to  
 2471 administer this section.

2472 Section 39. The Division of Statutory Revision is  
 2473 requested to renumber part V of chapter 110, Florida Statutes,  
 2474 as part III of that chapter, consisting of ss. 110.302-110.3023,  
 2475 Florida Statutes, and to rename that part as "Selected Exempt  
 2476 Service."

2477 Section 40. Section 110.601, Florida Statutes, is  
 2478 transferred, renumbered as section 110.302, Florida Statutes,  
 2479 and amended to read:

2480 110.302 ~~110.601~~ Declaration of policy.—This part creates a  
 2481 system of personnel administration for ~~management~~ the purpose of  
 2482 delivering ~~which is to deliver~~ high-quality performance by  
 2483 selected exempt service ~~those~~ employees in the State Personnel  
 2484 System ~~select exempt classifications~~ by facilitating the ~~state's~~  
 2485 ability to attract and retain qualified personnel in these  
 2486 positions, while also providing sufficient management  
 2487 flexibility to ensure that the workforce is responsive to agency  
 2488 needs. The Legislature recognizes that the public interest is  
 2489 best served by developing and refining the technical and  
 2490 managerial skills of these ~~its selected exempt service~~  
 2491 ~~employees, and, to this end, technical training and management~~  
 2492 ~~development programs are regarded as a major administrative~~

2493 ~~function within agencies.~~

2494 Section 41. Section 110.602, Florida Statutes, is  
 2495 transferred, renumbered as section 110.3021, Florida Statutes,  
 2496 and amended to read:

2497 110.3021 ~~110.602~~ Selected Exempt Service; creation,  
 2498 ~~coverage.~~

2499 (1) The Selected Exempt Service is created as a separate  
 2500 system of personnel administration for State Personnel System  
 2501 ~~select exempt positions that.~~ Such positions shall include, and  
 2502 shall be limited to, those positions which are exempt from the  
 2503 Civil Career Service System pursuant to s. 110.205(2) and (5)  
 2504 and for which the salaries and benefits are set by the  
 2505 department in accordance with the rules of the Selected Exempt  
 2506 Service. ~~The department shall designate all positions included~~  
 2507 ~~in the Selected Exempt Service as either~~  
 2508 ~~managerial/policymaking, professional, or~~  
 2509 ~~nonmanagerial/nonpolicymaking.~~

2510 (2) Employees in the Selected Exempt Service shall serve  
 2511 at the pleasure of the agency head and are subject to personnel  
 2512 actions at the discretion of the agency head. Personnel actions  
 2513 that are tantamount to suspension, dismissal, reduction in pay,  
 2514 demotion, or transfer are exempt from chapter 120.

2515 Section 42. Section 110.605, Florida Statutes, is  
 2516 transferred, renumbered as section 110.3022, Florida Statutes,  
 2517 and amended to read:

2518 110.3022 ~~110.605~~ Powers and duties; ~~personnel rules,~~  
 2519 ~~records, reports, and performance appraisal.~~ The department is  
 2520 responsible for the policy administration of the Selected Exempt

2521 Service. In carrying out that function, the department shall:  
 2522 (1) Provide broad, market-based pay bands for occupations  
 2523 within the Selected Exempt Service and establish guidelines that  
 2524 allow state agencies flexibility to move employees through the  
 2525 pay bands. The agencies may determine the appropriate salary  
 2526 within the bands using the guidelines adopted by the department.  
 2527 The pay bands and the assignment of bands to positions do not  
 2528 constitute rules as defined in s. 120.52.  
 2529 (2) Establish a classification system and a salary and  
 2530 benefit plan for the Selected Exempt Service that provides for  
 2531 greater pay and benefits overall than are provided for the Civil  
 2532 Service and less pay and benefits overall than are provided for  
 2533 the Senior Management Service.  
 2534 (3) In consultation with the Executive Office of the  
 2535 Governor and the appropriations committees of the Legislature,  
 2536 conduct compensation surveys as necessary for achieving an  
 2537 equitable, competitive, market-based compensation policy for  
 2538 selected exempt service employees.  
 2539 (4) Establish a performance evaluation system for selected  
 2540 exempt service employees that takes into consideration  
 2541 individual and organizational efficiency, productivity, and  
 2542 effectiveness.  
 2543 (5) Establish a system for documenting department actions  
 2544 taken on agency requests for the approval of position exemptions  
 2545 and pay increases for selected exempt service employees.  
 2546 (6) (1) The department shall Adopt and administer uniform  
 2547 personnel rules, records, and reports relating to employees and  
 2548 positions in the Selected Exempt Service, as well as any other

2549 | rules and procedures relating to personnel administration that  
 2550 | ~~which~~ are necessary to carry out the purposes of this part.

2551 | (a) The rules adopted by the department and each state  
 2552 | agency must comply with all federal regulations necessary for  
 2553 | state agencies to receive federal funds.

2554 | (b) Each agency shall operate within the uniform personnel  
 2555 | rules adopted by the department pursuant to this part.

2556 | (c) Each agency shall maintain up-to-date records and  
 2557 | reports required by applicable rules.

2558 | (d)-(a) The department may ~~shall~~ develop uniform forms and  
 2559 | instructions to be used for personnel ~~in reporting~~ transactions  
 2560 | ~~which involve changes in an employee's salary, status,~~  
 2561 | ~~performance, leave, fingerprint record, loyalty oath, payroll~~  
 2562 | ~~change, or appointment action or any additional transactions as~~  
 2563 | the department deems ~~may deem~~ appropriate.

2564 | ~~(b) The department shall develop a uniform performance~~  
 2565 | ~~appraisal system for employees and positions in the Selected~~  
 2566 | ~~Exempt Service covered by a collective bargaining agreement.~~  
 2567 | ~~Each employing agency shall develop a performance appraisal~~  
 2568 | ~~system for all other employees and positions in the Selected~~  
 2569 | ~~Exempt System. Such agency system shall take into consideration~~  
 2570 | ~~individual and organizational efficiency, productivity, and~~  
 2571 | ~~effectiveness.~~

2572 | ~~(c) The employing agency must maintain, on a current~~  
 2573 | ~~basis, all records and reports required by applicable rules. The~~  
 2574 | ~~department shall periodically audit employing agency records to~~  
 2575 | ~~determine compliance with the provisions of this part and the~~  
 2576 | ~~rules of the department.~~

2577 ~~(d) The department shall develop a program of affirmative~~  
 2578 ~~and positive actions that will ensure full utilization of women~~  
 2579 ~~and minorities in Selected Exempt Service positions.~~

2580 ~~(2) Each employing agency shall operate within the uniform~~  
 2581 ~~personnel rules adopted by the department pursuant to the~~  
 2582 ~~provisions of this part. Each employing agency may adopt rules~~  
 2583 ~~as necessary to implement the provisions of this part, but such~~  
 2584 ~~rules shall not prescribe any personnel policies inconsistent~~  
 2585 ~~with the provisions of this part or the rules of the department.~~

2586 ~~(3) The rules adopted by the department and each employing~~  
 2587 ~~agency under this part shall comply with all federal regulations~~  
 2588 ~~necessary to permit the state agencies to be eligible to receive~~  
 2589 ~~federal funds.~~

2590 ~~(4) The department shall adopt by rule procedures for~~  
 2591 ~~Selected Exempt Service employees that require disclosure to the~~  
 2592 ~~agency head of any application for or offer of employment, gift,~~  
 2593 ~~contractual relationship, or financial interest with any~~  
 2594 ~~individual, partnership, association, corporation, utility, or~~  
 2595 ~~other organization, whether public or private, doing business~~  
 2596 ~~with or subject to regulation by the agency.~~

2597 ~~(5) The secretary may periodically hire a consultant with~~  
 2598 ~~expertise in personnel management to advise him or her with~~  
 2599 ~~respect to the administration of the Selected Exempt Service.~~

2600 Section 43. Section 110.3023, Florida Statutes, is created  
 2601 to read:

2602 110.3023 Recruitment.-

2603 (1) Each state agency is responsible for establishing a  
 2604 process for employing, advancing, and deploying selected exempt

HB 1261

2012

2605 service staff to meet agency needs.

2606 (2) If normal recruitment efforts of the agency through  
2607 the use of the department's designated human resource  
2608 information system, trade journals, or magazines are  
2609 unsuccessful, the agency may contract with a person or firm to  
2610 conduct a multistate search for hard-to-fill professional  
2611 positions. The contracted person or firm must satisfy the  
2612 following criteria:

2613 (a) Willingness to accept contingency contracts with fees  
2614 that do not exceed 30 percent of the annual salary of the  
2615 applicant, to be paid upon employment of an applicant produced  
2616 by the search.

2617 (b) Demonstrated capacity to perform effectively at  
2618 competitive industry prices.

2619 (c) Evidence of successful placements in the public sector  
2620 by level and type of placement.

2621 (d) Agreement for the delivery of services within 90  
2622 calendar days after the date of the requested search by the  
2623 agency, unless an extension is granted by the agency.

2624 (e) Ability to attract minorities and women as evidenced  
2625 by applicant pools generated for previous clients.

2626 Section 44. The Division of Statutory Revision is  
2627 requested to renumber part III of chapter 110, Florida Statutes,  
2628 as part IV of that chapter, consisting of ss. 110.401-110.4035,  
2629 Florida Statutes, and to rename that part as "Senior Management  
2630 Service."

2631 Section 45. Section 110.401, Florida Statutes, is amended  
2632 to read:

HB 1261

2012

2633           110.401 Declaration of policy.—This part creates a ~~uniform~~  
 2634 system of personnel administration for attracting, retaining,  
 2635 and developing highly competent, executive-level senior-level  
 2636 managers within the State Personnel System ~~at the highest~~  
 2637 ~~executive-management-level agency positions in order for the~~  
 2638 ~~highly complex programs and agencies of state government to~~  
 2639 ~~function effectively, efficiently, and productively.~~ The  
 2640 Legislature recognizes that executive-level senior-level  
 2641 management is an established profession and that the public  
 2642 interest is best served by developing and refining the  
 2643 management skills of its senior management service employees.  
 2644 ~~Accordingly, training and management development programs are~~  
 2645 ~~regarded as a major administrative function within agencies.~~

2646           Section 46. Section 110.402, Florida Statutes, is amended  
 2647 to read:

2648           110.402 Senior Management Service; creation, ~~coverage.~~—

2649           (1) The Senior Management Service is created as a separate  
 2650 system of personnel administration for positions in the State  
 2651 Personnel System ~~executive branch~~ the duties and  
 2652 responsibilities of which are primarily and essentially  
 2653 policymaking or managerial in nature.

2654           ~~(2) Such positions are~~ The Senior Management Service shall  
 2655 ~~be limited to those positions that which~~ are exempt from the  
 2656 Civil Career Service under System ~~by s. 110.205(2)~~ and for which  
 2657 the salaries and benefits are set by the department in  
 2658 accordance with the rules of the Senior Management Service.

2659           (2) Employees in the Senior Management Service shall serve  
 2660 at the pleasure of the agency head and are subject to personnel

2661 actions at the discretion of the agency head. Personnel actions  
 2662 that are tantamount to suspension, dismissal, reduction in pay,  
 2663 demotion, or transfer are exempt from chapter 120.

2664 Section 47. Section 110.403, Florida Statutes, is amended  
 2665 to read:

2666 110.403 Powers and duties of the department.—The  
 2667 department is responsible for the policy administration of the  
 2668 Senior Management Service. In carrying out that function, the  
 2669 department shall:

2670 ~~(1) In order to implement the purposes of this part, the~~  
 2671 ~~Department of Management Services, after approval by the~~  
 2672 ~~Administration Commission, shall adopt and amend rules providing~~  
 2673 ~~for:~~

2674 (1)(a) Establish a system for employing, advancing, and  
 2675 deploying senior management service employees promoting, or  
 2676 ~~reassigning managers~~ that is responsive to organizational or  
 2677 program needs. ~~In no event shall~~ The number of positions  
 2678 included in the Senior Management Service may not exceed 1.0  
 2679 percent of the total full-time equivalent positions in the Civil  
 2680 ~~career~~ Service. The department may not approve the establishment  
 2681 ~~of shall deny approval to establish~~ any position within the  
 2682 Senior Management Service that exceeds ~~which would exceed~~ the  
 2683 limitation established in this paragraph. The department shall  
 2684 report that the limitation has been reached to the Governor, the  
 2685 President of the Senate, and the Speaker of the House of  
 2686 Representatives, as soon as practicable after ~~it such event~~  
 2687 occurs. ~~Employees in the Senior Management Service shall serve~~  
 2688 ~~at the pleasure of the agency head and shall be subject to~~



2689 ~~suspension, dismissal, reduction in pay, demotion, transfer, or~~  
 2690 ~~other personnel action at the discretion of the agency head.~~  
 2691 ~~Such personnel actions are exempt from the provisions of chapter~~  
 2692 ~~120.~~

2693 (2) Provide broad, market-based pay bands for occupations  
 2694 within the Senior Management Service and establish guidelines  
 2695 that allow state agencies flexibility to move employees through  
 2696 the pay bands. The agencies may determine the appropriate salary  
 2697 within the bands using the guidelines adopted by the department.  
 2698 The pay bands and the assignment of bands to positions do not  
 2699 constitute rules as defined in s. 120.52.

2700 ~~(b) A performance appraisal system which shall take into~~  
 2701 ~~consideration individual and organizational efficiency,~~  
 2702 ~~productivity, and effectiveness.~~

2703 (3)(e) Establish a classification system plan and a salary  
 2704 and benefit plan for the Senior Management Service that provides  
 2705 appropriate incentives for the recruitment and retention of  
 2706 outstanding management personnel and provides for salary  
 2707 increases based on performance.

2708 (4) In consultation with the Executive Office of the  
 2709 Governor and the appropriations committees of the Legislature,  
 2710 conduct compensation surveys as necessary for achieving an  
 2711 equitable, competitive, market-based compensation policy for  
 2712 senior management service employees.

2713 (5) Establish a performance evaluation system for senior  
 2714 management service employees that takes into consideration  
 2715 individual and organizational efficiency, productivity, and  
 2716 effectiveness.

HB 1261

2012

2717 ~~(d) A system of rating duties and responsibilities for~~  
2718 ~~positions within the Senior Management Service and the~~  
2719 ~~qualifications of candidates for those positions.~~

2720 (6)(e) Establish a system for documenting actions taken on  
2721 agency requests for approval of position exemptions and special  
2722 pay increases for senior management service employees.

2723 (7) Adopt and administer personnel rules, records, and  
2724 reports relating to employees and positions in the Senior  
2725 Management Service, as well as any other rules or procedures  
2726 relating to personnel administration that are necessary to carry  
2727 out the purposes of this part.

2728 (a) The rules adopted by the department and each state  
2729 agency must comply with all federal regulations necessary for  
2730 state agencies to receive federal funds.

2731 (b) Each agency shall operate within the uniform personnel  
2732 rules adopted by the department pursuant to this part.

2733 (c) Each agency shall maintain up-to-date records and  
2734 reports required by applicable rules.

2735 (d) The department may develop uniform forms and  
2736 instructions to be used for personnel transactions as the  
2737 department deems appropriate.

2738 ~~(f) Requirements regarding recordkeeping by agencies with~~  
2739 ~~respect to Senior Management Service positions. Such records~~  
2740 ~~shall be audited periodically by the Department of Management~~  
2741 ~~Services to determine agency compliance with the provisions of~~  
2742 ~~this part and the rules of the Department of Management~~  
2743 ~~Services.~~

2744 ~~(g) Other procedures relating to personnel administration~~

2745 ~~to carry out the purposes of this part.~~

2746 ~~(h) A program of affirmative and positive action that will~~  
 2747 ~~ensure full utilization of women and minorities in Senior~~  
 2748 ~~Management Service positions.~~

2749 ~~(2) The powers, duties, and functions of the department of~~  
 2750 ~~Management Services shall include responsibility for the policy~~  
 2751 ~~administration of the Senior Management Service.~~

2752 ~~(3) The department shall have the following additional~~  
 2753 ~~responsibilities:~~

2754 ~~(a) To establish and administer a professional development~~  
 2755 ~~program that shall provide for the systematic development of~~  
 2756 ~~managerial, executive, or administrative skills. Such a program~~  
 2757 ~~shall include the following topics:~~

2758 ~~1. Improving the performance of individual employees. This~~  
 2759 ~~topic provides skills in understanding and motivating individual~~  
 2760 ~~performance, providing effective and timely evaluations of~~  
 2761 ~~employees, and making recommendations on performance incentives~~  
 2762 ~~and disincentives.~~

2763 ~~2. Improving the performance of groups of employees. This~~  
 2764 ~~topic provides skills in creating and maintaining productive~~  
 2765 ~~workgroups and making recommendations on performance incentives~~  
 2766 ~~and disincentives.~~

2767 ~~3. Relating the efforts of employees to the goals of the~~  
 2768 ~~organization. This topic provides skills in linking the work of~~  
 2769 ~~individual employees to the goals of the agency program,~~  
 2770 ~~service, or activity.~~

2771 ~~4. Strategic planning. This topic provides the skills for~~  
 2772 ~~defining agency business processes, measuring performance of~~

2773 ~~such processes, and reengineering such processes for improved~~  
 2774 ~~efficiency and effectiveness.~~

2775 ~~5. Team leadership. This topic provides skills in~~  
 2776 ~~effective group processes for organizational motivation and~~  
 2777 ~~productivity based on proven business and military applications~~  
 2778 ~~that emphasize respect for and courtesy to the public.~~

2779 ~~(b) To promote public understanding of the purposes,~~  
 2780 ~~policies, and programs of the Senior Management Service.~~

2781 ~~(c) To approve contracts of employing agencies with~~  
 2782 ~~persons engaged in the business of conducting multistate~~  
 2783 ~~executive searches to identify qualified and available~~  
 2784 ~~applicants for Senior Management Service positions for which the~~  
 2785 ~~department sets salaries in accordance with the classification~~  
 2786 ~~and pay plan. Such contracts may be entered by the agency head~~  
 2787 ~~only after completion of an unsuccessful in-house search. The~~  
 2788 ~~department shall establish, by rule, the minimum qualifications~~  
 2789 ~~for persons desiring to conduct executive searches, including a~~  
 2790 ~~requirement for the use of contingency contracts. These rules~~  
 2791 ~~shall ensure that such persons possess the requisite capacities~~  
 2792 ~~to perform effectively at competitive industry prices. These~~  
 2793 ~~rules shall also comply with state and federal laws and~~  
 2794 ~~regulations governing equal opportunity employment.~~

2795 ~~(4) All policies and procedures adopted by the department~~  
 2796 ~~regarding the Senior Management Service shall comply with all~~  
 2797 ~~federal regulations necessary to permit the state agencies to be~~  
 2798 ~~eligible to receive federal funds.~~

2799 ~~(5) The department shall adopt, by rule, procedures for~~  
 2800 ~~Senior Management Service employees that require disclosure to~~

2801 ~~the agency head of any application for or offer of employment,~~  
 2802 ~~gift, contractual relationship, or financial interest with any~~  
 2803 ~~individual, partnership, association, corporation, utility, or~~  
 2804 ~~other organization, whether public or private, doing business~~  
 2805 ~~with or subject to regulation by the agency.~~

2806 Section 48. Section 110.4035, Florida Statutes, is created  
 2807 to read:

2808 110.4035 Recruitment.-

2809 (1) Each state agency is responsible for establishing a  
 2810 process for employing, advancing, and deploying executive-level  
 2811 managers to meet agency needs.

2812 (2) If normal recruitment efforts are unsuccessful, the  
 2813 agency may contract with a person or firm to conduct a  
 2814 multistate search for executive-level managers. The contracted  
 2815 person or firm must satisfy the following criteria:

2816 (a) Willingness to accept contingency contracts with fees  
 2817 that do not exceed 30 percent of the annual salary of the  
 2818 applicant, to be paid upon employment of the applicant produced  
 2819 by the search.

2820 (b) Demonstrated capacity to perform effectively at  
 2821 competitive industry prices.

2822 (c) Evidence of successful placements in the public sector  
 2823 by level and type of placement.

2824 (d) Agreement for the delivery of services within 90  
 2825 calendar days after the date of the requested search by the  
 2826 agency, unless an extension is granted by the agency.

2827 (e) Ability to attract minorities and women as evidenced  
 2828 by applicant pools generated for previous clients.

HB 1261

2012

2829           Section 49. The Division of Statutory Revision is  
 2830 requested to create part IX of chapter 112, Florida Statutes,  
 2831 consisting of ss. 112.906-112.929, Florida Statutes, to be  
 2832 entitled "State Employment."

2833           Section 50. Section 112.906, Florida Statutes, is created  
 2834 to read:

2835           112.906 Definitions.—As used in this part, the term:

2836           (1) "Department" means the Department of Management  
 2837 Services.

2838           (2) "Other personal services" has the same meaning as in  
 2839 s. 216.011(1).

2840           (3) "State agency" or "agency" means any official,  
 2841 officer, commission, board, authority, council, committee, or  
 2842 department of the executive branch or judicial branch of state  
 2843 government as defined in chapter 216, unless otherwise exempted  
 2844 by law.

2845           (5) "State employee" or "employee" means an employee of a  
 2846 state agency.

2847           Section 51. Section 110.131, Florida Statutes, is  
 2848 transferred, renumbered as section 112.907, Florida Statutes,  
 2849 and amended to read:

2850           112.907 ~~110.131~~ Other-personal-services temporary  
 2851 employment.—

2852           ~~(1) As used in this section, the term "agency" means any~~  
 2853 ~~official, officer, commission, board, authority, council,~~  
 2854 ~~committee, or department of the executive branch of state~~  
 2855 ~~government and means any officer, court, commission, or other~~  
 2856 ~~unit of the judicial branch of state government supported in~~

HB 1261

2012

2857 ~~whole or in part by appropriations made by the Legislature.~~

2858 (1)~~(2)~~ An agency may employ any qualified individual in  
 2859 other-personal-services ~~temporary~~ employment ~~for 1,040 hours~~  
 2860 ~~within any 12-month period.~~ For each other-personal-services  
 2861 employee, the agency shall:

2862 (a) Maintain employee records identifying, at a minimum,  
 2863 the person employed, the hire date, the type of other-personal-  
 2864 services employment, and the number of hours worked.

2865 (b) Determine the appropriate rate of pay and ensure that  
 2866 all payments are in compliance with the federal Fair Labor  
 2867 Standards Act and state law.

2868 (c) Review, determine, and document by June 30 of each  
 2869 year whether the continuation of each other-personal-services  
 2870 employment position is necessary to the mission of the agency.  
 2871 This review process ~~An extension beyond a total of 1,040 hours~~  
 2872 ~~within an agency for any individual requires a recommendation by~~  
 2873 ~~the agency head and approval by the Executive Office of the~~  
 2874 ~~Governor. Approval of extensions shall be made in accordance~~  
 2875 ~~with criteria established by the department. Each agency shall~~  
 2876 ~~maintain employee information as specified by the department~~  
 2877 ~~regarding each extension of other-personal-services temporary~~  
 2878 ~~employment. The time limitation established by this subsection~~  
 2879 ~~does not apply to board members; consultants; seasonal~~  
 2880 ~~employees; institutional clients employed as part of their~~  
 2881 ~~rehabilitation; bona fide, degree-seeking students in accredited~~  
 2882 ~~secondary or postsecondary educational programs; employees hired~~  
 2883 ~~to deal with an emergency situation that affects the public~~  
 2884 ~~health, safety, or welfare; or employees hired for a project~~

2885 that is identified by a specific appropriation or time-limited  
 2886 grant.

2887 (2) Unless specifically provided by law, other-personal-  
 2888 services employees are not eligible for any form of paid leave,  
 2889 paid holidays, a paid personal day, participation in state group  
 2890 insurance or retirement benefits, or any other state employee  
 2891 benefit. Other-personal-services employees may be included in  
 2892 that part of an agency's recognition and reward program that  
 2893 recognizes and rewards employees who submit innovative ideas  
 2894 that increase productivity, eliminate or reduce state  
 2895 expenditures, improve operations, or generate additional revenue  
 2896 or who meet or exceed the agency's established criteria for a  
 2897 project or goal.

2898 (3) Each agency that is authorized to adopt rules  
 2899 governing the conditions of employment may adopt rules necessary  
 2900 to administer this section.

2901 ~~(3) The department shall adopt rules providing that other-~~  
 2902 ~~personal-services temporary employment in an employer-employee~~  
 2903 ~~relationship shall be used for short-term tasks. Such rules~~  
 2904 ~~shall specify the employment categories, terms, conditions, rate~~  
 2905 ~~of pay, and frequency of other-personal-services temporary~~  
 2906 ~~employment and the duration for which such employment may last;~~  
 2907 ~~specify criteria for approving extensions beyond the time~~  
 2908 ~~limitation provided in subsection (2); and prescribe~~  
 2909 ~~recordkeeping and reporting requirements for other personal-~~  
 2910 ~~services employment.~~

2911 ~~(4) The department shall prepare written material~~  
 2912 ~~explaining the terms and conditions of other-personal-services~~



HB 1261

2012

2913 ~~employment and shall provide master copies to each agency. Each~~  
 2914 ~~agency shall provide each of its applicants for such employment~~  
 2915 ~~with a copy thereof at the time of application and shall discuss~~  
 2916 ~~the information contained thereon with each applicant at the~~  
 2917 ~~time of interview or employment commencement, whichever occurs~~  
 2918 ~~sooner.~~

2919 ~~(5) The department shall maintain information relating to~~  
 2920 ~~other personal services employment for each agency. Such~~  
 2921 ~~information shall include:~~

2922 ~~(a) The total amount of compensation for other personal~~  
 2923 ~~services personnel, by employment category, for the preceding~~  
 2924 ~~fiscal year.~~

2925 ~~(b) The name, social security number, employment category,~~  
 2926 ~~employment commencement date, and number of hours worked for~~  
 2927 ~~each individual whose initial other personal services temporary~~  
 2928 ~~employment began before the start of the preceding fiscal year~~  
 2929 ~~and who was still employed as an other personal services~~  
 2930 ~~temporary employee at the end of the preceding fiscal year.~~

2931 ~~(6) (a) The provisions of subsections (2), (3), and (4) do~~  
 2932 ~~not apply to any employee for whom the Board of Governors of the~~  
 2933 ~~State University System, or the board's designee, or the Board~~  
 2934 ~~of Trustees of the Florida School for the Deaf and the Blind is~~  
 2935 ~~the employer as defined in s. 447.203(2); except that, for~~  
 2936 ~~purposes of subsection (5), the Board of Trustees of the Florida~~  
 2937 ~~School for the Deaf and the Blind shall comply with the~~  
 2938 ~~recordkeeping and reporting requirements adopted by the~~  
 2939 ~~department pursuant to subsection (3) with respect to those~~  
 2940 ~~other personal services employees exempted by this subsection.~~

2941 ~~(b) The provisions of subsections (2), (3), and (4) do not~~  
 2942 ~~apply to any employee of the Division of Blind Services Library~~  
 2943 ~~for the Blind and Physically Handicapped for whom the Division~~  
 2944 ~~of Blind Services is the employer as defined in s. 447.203(2);~~  
 2945 ~~except that, for purposes of subsection (5), the Division of~~  
 2946 ~~Blind Services shall comply with the recordkeeping and reporting~~  
 2947 ~~requirements adopted by the department pursuant to subsection~~  
 2948 ~~(3) with respect to those other personal services employees~~  
 2949 ~~exempted by this subsection.~~

2950 ~~(c) Notwithstanding the provisions of this section, the~~  
 2951 ~~agency head or his or her designee may extend the other-~~  
 2952 ~~personal services employment of a health care practitioner~~  
 2953 ~~licensed pursuant to chapter 458, chapter 459, chapter 460,~~  
 2954 ~~chapter 461, chapter 463, part I of chapter 464, chapter 466,~~  
 2955 ~~chapter 468, chapter 483, chapter 486, or chapter 490 beyond~~  
 2956 ~~2,080 hours and may employ such practitioner on an hourly or~~  
 2957 ~~other basis.~~

2958 ~~(7) The Department of Management Services shall annually~~  
 2959 ~~assess agencies for the regulation of other personal services on~~  
 2960 ~~a pro rata share basis not to exceed an amount as provided in~~  
 2961 ~~the General Appropriations Act.~~

2962 Section 52. Section 110.1128, Florida Statutes, is  
 2963 transferred and renumbered as section 112.908, Florida Statutes.

2964 Section 53. Section 110.1221, Florida Statutes, is  
 2965 transferred, renumbered as section 112.909, Florida Statutes,  
 2966 and amended to read:

2967 112.909 ~~110.1221~~ Sexual harassment policy; ~~executive~~  
 2968 ~~agency rules.~~—It is the policy of the state that sexual

HB 1261

2012

2969 harassment is a form of discrimination. Each agency that is  
 2970 authorized to adopt rules governing the conditions of employment  
 2971 ~~The department~~ shall adopt uniform sexual harassment rules  
 2972 ~~applicable to all executive agencies.~~ Such the rules must define  
 2973 the term "sexual harassment" in a manner consistent with the  
 2974 federal definition.

2975 Section 54. Section 112.9095, Florida Statutes, is created  
 2976 to read:

2977 112.9095 Nondiscrimination in employment.-

2978 (1) It is the policy of the state that all appointments,  
 2979 terminations, assignments, and maintenance of status,  
 2980 compensation, privileges, and other terms and conditions of  
 2981 employment shall be made without regard to age, sex, race,  
 2982 color, religion, national origin, political affiliation, marital  
 2983 status, disability, or genetic information, unless a specific  
 2984 requirement constitutes a bona fide occupational qualification.

2985 (2) The state and its agencies and officers shall ensure  
 2986 freedom from discrimination in employment as provided by the  
 2987 Florida Civil Rights Act of 1992, by s. 112.044, and by this  
 2988 chapter.

2989 Section 55. Section 112.9096, Florida Statutes, is created  
 2990 to read:

2991 112.9096 Equal employment opportunity.-

2992 (1) It is the policy of the state to assist in ensuring  
 2993 equal employment opportunity through programs of affirmative and  
 2994 positive action that allow full utilization of women and  
 2995 minorities.

2996 (2) The head of each executive agency shall develop and

2997 implement an affirmative action plan in accordance with this  
 2998 section and applicable state and federal laws.

2999 (a) Each executive agency shall establish annual goals for  
 3000 ensuring the full utilization of groups underrepresented in its  
 3001 workforce as compared to the relevant labor market, as defined  
 3002 by the agency. Each executive agency shall design its  
 3003 affirmative action plan to meet its established goals.

3004 (b) An equal employment opportunity officer shall be  
 3005 appointed by the head of each executive agency.

3006 (c) By October 1 of each year, each executive agency that  
 3007 is not a part of the State Personnel System shall report to the  
 3008 Executive Office of the Governor information relating to the  
 3009 implementation, continuance, updating, and results of each  
 3010 executive agency's affirmative action plan for the previous  
 3011 fiscal year.

3012 (3) Each state attorney and public defender shall:

3013 (a) Develop and implement an affirmative action plan.

3014 (b) Establish annual goals for ensuring full utilization  
 3015 of groups underrepresented in its workforce as compared to the  
 3016 relevant labor market in this state. The state attorneys' and  
 3017 public defenders' affirmative action plans must be designed to  
 3018 meet the established goals.

3019 (c) Appoint an affirmative action-equal employment  
 3020 opportunity officer.

3021 (d) Report annually to the Justice Administrative  
 3022 Commission on the implementation, continuance, updating, and  
 3023 results of his or her affirmative action program for the  
 3024 previous fiscal year.

3025 (4) Any individual claiming to be aggrieved by an unlawful  
 3026 employment practice may file a complaint with the Florida  
 3027 Commission on Human Relations as provided by s. 760.11.

3028 Section 56. Section 110.122, Florida Statutes, is  
 3029 transferred, renumbered as section 112.910, Florida Statutes,  
 3030 and amended to read:

3031 112.910 ~~110.122~~ Accumulation and use of leave; terminal  
 3032 payment for unused accumulated sick leave.-

3033 (1) (a) All state ~~branches, departments, and agencies that~~  
 3034 are authorized ~~which have the authority to establish or approve~~  
 3035 ~~personnel policies for employees and to employ personnel and~~  
 3036 ~~establish the conditions of their employment shall establish~~  
 3037 ~~policies to provide terminal "incentive" pay for accumulated and~~  
 3038 ~~unused sick leave to each employee upon normal or regular~~  
 3039 ~~retirement for reason other than disability or upon termination~~  
 3040 ~~of employment, or to the employee's beneficiary if service is~~  
 3041 ~~terminated by death, provided such retirement, termination, or~~  
 3042 ~~death occurs after 10 years of creditable state employment.~~

3043 ~~(2) The employing entity shall establish and publish rules~~  
 3044 ~~governing the accumulation and use of annual and sick leave and~~  
 3045 ~~maintain accurate and reliable records of showing the~~  
 3046 accumulation and use of amount of sick leave which has  
 3047 accumulated and is unused by each the employee at the time of  
 3048 retirement, death, or termination.

3049 (b) Annual leave earned on or after July 1, 2012, may not  
 3050 be carried over to the next calendar year. However, firefighters  
 3051 and law enforcement or correctional officers may receive payment  
 3052 for unused annual leave at the end of each calendar year, upon

HB 1261

2012

3053 approval of the firefighter's or officer's direct supervisor and  
 3054 the director of human resources.

3055 (2) (a) The employing entity shall establish policies and  
 3056 publish rules providing terminal pay for accumulated and unused  
 3057 annual and sick leave to each employee upon normal or regular  
 3058 retirement for reason other than disability or upon termination  
 3059 of employment, or to the employee's beneficiary if employment is  
 3060 terminated by death.

3061 (b) An employee is eligible for terminal pay for sick  
 3062 leave earned on or before June 30, 2012, if the employee's  
 3063 retirement, termination, or death occurs after 10 years of  
 3064 creditable state employment.

3065 (c) An employee is eligible for terminal pay for annual  
 3066 leave earned on or before June 30, 2012, if the employee's  
 3067 retirement, termination, or death occurs after 1 year of  
 3068 creditable state employment.

3069 (3) (a) The payments authorized by this section shall be  
 3070 determined by using the rate of pay received by the employee at  
 3071 the time of retirement, termination, or death or June 30, 2012,  
 3072 whichever occurs first, applied to the annual and sick leave  
 3073 time for which the employee is qualified to receive terminal  
 3074 "~~incentive~~" pay under the rules adopted by the department  
 3075 pursuant to ~~the provisions of~~ this section.

3076 (b) Rules and policies adopted pursuant to this section  
 3077 must provide ~~shall permit~~ terminal pay for sick leave equal to  
 3078 one-eighth of all unused sick leave credit accumulated before  
 3079 ~~prior to~~ October 1, 1973, plus one-fourth of all unused sick  
 3080 leave accumulated on or after October 1, 1973, except that

3081 terminal pay may not be provided for unused sick leave  
 3082 accumulated on or after July 1, 2012. ~~However,~~ Terminal pay  
 3083 allowable for unused sick leave may accumulated on or after  
 3084 ~~October 1, 1973,~~ shall not exceed a ~~maximum of~~ 480 hours of  
 3085 actual payment. Employees must ~~shall be required to~~ use all sick  
 3086 leave accumulated before ~~prior to~~ October 1, 1973, before using  
 3087 sick leave accumulated on or after October 1, 1973.

3088 (c) Rules and policies adopted pursuant to this section  
 3089 must provide terminal pay for annual leave earned on or before  
 3090 June 30, 2012. Terminal pay allowable for unused annual leave  
 3091 may not exceed 240 hours of actual payment.

3092 (4) The payments made pursuant to this section are ~~shall~~  
 3093 not salary payments ~~be considered~~ in any state-administered  
 3094 retirement system ~~as salary payments~~ and may ~~shall~~ not be used  
 3095 in determining the average final compensation of an employee in  
 3096 any state-administered retirement system.

3097 (5) Any employee:

3098 (a) Who is found guilty ~~in a court of competent~~  
 3099 ~~jurisdiction~~ of committing, aiding, or abetting any embezzlement  
 3100 or theft from the employee's employer or bribery in connection  
 3101 with the employment, committed before ~~prior to~~ retirement or 10-  
 3102 year normal creditable termination;

3103 (b) Whose employment is terminated by reason of the  
 3104 employee having admitted committing, aiding, or abetting an  
 3105 embezzlement or theft from his or her employer or by reason of  
 3106 bribery;

3107 (c) Who, before ~~prior to~~ 10-year normal creditable  
 3108 termination or retirement is adjudged by a court of competent

HB 1261

2012

3109 jurisdiction to have violated any state law against strikes by  
 3110 public employees; or

3111 (d) Who has been found guilty ~~by a court of competent~~  
 3112 ~~jurisdiction~~ of violating any state law prohibiting strikes by  
 3113 public employees

3114  
 3115 ~~forfeits, shall forfeit~~ all rights and benefits under this  
 3116 section. An employee whose employment terminates as a result of  
 3117 an act committed subject to this subsection may ~~shall~~ not be  
 3118 given credit for unused sick leave accumulated before ~~prior to~~  
 3119 termination if ~~should~~ the employee is ~~be~~ reemployed at a later  
 3120 date.

3121 Section 57. Section 110.121, Florida Statutes, is  
 3122 transferred, renumbered as section 112.911, Florida Statutes,  
 3123 and amended to read:

3124 112.911 ~~110.121~~ Sick leave pool.—Each entity that is  
 3125 authorized ~~department or agency of the state which has authority~~  
 3126 to adopt rules governing the accumulation and use of sick leave  
 3127 for employees and ~~which~~ maintains accurate and reliable records  
 3128 showing the amount of sick leave that ~~which~~ has been accumulated  
 3129 and is unused by employees ~~may, in accordance with guidelines~~  
 3130 ~~which shall be established by the Department of Management~~  
 3131 ~~Services,~~ adopt rules establishing ~~for the establishment of a~~  
 3132 plan that allows ~~allowing~~ participating employees to pool and  
 3133 use sick leave and ~~allowing any sick leave thus pooled to be~~  
 3134 ~~used by any participating employee who has used all of the sick~~  
 3135 ~~leave that has been personally accrued by him or her. Although~~  
 3136 ~~not limited to the following,~~ Such rules shall provide, but need



3137 | not be limited to:

3138 |       (1) Minimum eligibility criteria ~~That employees shall be~~  
 3139 | ~~eligible~~ for participation in the sick leave pool ~~after 1 year~~  
 3140 | ~~of employment with the state or agency of the state; provided~~  
 3141 | ~~that such employee has accrued a minimum amount of unused sick~~  
 3142 | ~~leave, which minimum shall be established by rule.~~

3143 |       (2) That participation in the sick leave pool is ~~shall, at~~  
 3144 | ~~all times, be~~ voluntary on the part of the employees.

3145 |       (3) That any sick leave pooled shall be removed from the  
 3146 | personally accumulated sick leave balance of the employee  
 3147 | contributing such leave.

3148 |       (4) That any sick leave in the pool that ~~which~~ leave is  
 3149 | used by a participating employee is ~~shall be~~ used only for the  
 3150 | employee's personal illness, accident, or injury.

3151 |       (5) That a participating employee may ~~shall not be~~  
 3152 | ~~eligible to~~ use sick leave accumulated in the pool until all of  
 3153 | his or her personally accrued sick, annual, and compensatory  
 3154 | leave and his or her personal day have ~~has~~ been used.

3155 |       (6) The ~~A~~ maximum number of hours ~~days~~ of sick leave in  
 3156 | the pool that ~~which~~ any one employee may use.

3157 |       (7) That a participating employee who uses sick leave from  
 3158 | the pool is ~~shall not be~~ required to recontribute such sick  
 3159 | leave to the pool, except as otherwise provided in this section.

3160 |       (8) That an employee who cancels his or her membership in  
 3161 | the sick leave pool may ~~shall not be eligible to~~ withdraw the  
 3162 | hours ~~days~~ of sick leave contributed by that employee to the  
 3163 | pool.

3164 |       (9) That an employee who moves ~~transfers~~ from a ~~one~~

HB 1261

2012

3165 position in one agency ~~state government~~ to a ~~another~~ position in  
 3166 another agency ~~state government~~ may transfer from one pool to  
 3167 another if ~~the eligibility criteria of the pools are comparable~~  
 3168 ~~or~~ the administrators of the pools have agreed on the ~~a~~ formula  
 3169 ~~for~~ transfer of credits.

3170 (10) That alleged abuse ~~of the use~~ of the sick leave pool  
 3171 shall be investigated, and, on a finding of wrongdoing, the  
 3172 employee must ~~shall~~ repay all of the sick leave credits drawn  
 3173 from the sick leave pool and is ~~shall be~~ subject to such other  
 3174 disciplinary action as is determined by the agency head.

3175 (11) That sick leave credits may be drawn from the sick  
 3176 leave pool by a part-time employee on a pro rata basis.

3177 Section 58. Section 110.119, Florida Statutes, is  
 3178 transferred, renumbered as section 112.912, Florida Statutes,  
 3179 and amended to read:

3180 112.912 ~~110.119~~ Administrative leave for military  
 3181 ~~reexamination or treatment with respect to~~ service-connected  
 3182 disability.-

3183 ~~(1)~~ An ~~Any~~ employee ~~of the state~~ who has been rated by the  
 3184 United States Department of Veterans Affairs or its predecessor  
 3185 to have incurred a military service-connected disability and has  
 3186 been scheduled by the United States Department of Veterans  
 3187 Affairs to be reexamined or treated for the disability shall be  
 3188 granted administrative leave for such reexamination or treatment  
 3189 without loss of pay or benefits. However, such ~~In no event shall~~  
 3190 ~~the paid leave may not under this section~~ exceed 48 hours per ~~6~~  
 3191 calendar ~~days~~ a year.

3192 ~~(2)~~ ~~The department may adopt any rule necessary to carry~~

3193 ~~out the purpose of this section.~~

3194 Section 59. Section 110.120, Florida Statutes, is  
 3195 transferred, renumbered as section 112.913, Florida Statutes,  
 3196 and amended to read:

3197 112.913 ~~110.120~~ Administrative leave for disaster service  
 3198 volunteers.-

3199 (1) SHORT TITLE.-This section ~~shall be known and~~ may be  
 3200 cited as the "Florida Disaster Volunteer Leave Act."

3201 (2) DEFINITIONS.-As used in this section, the following  
 3202 terms shall apply:

3203 (a) "State agency" means any official, officer,  
 3204 commission, board, authority, council, committee, or department  
 3205 of the executive branch of state government.

3206 (b) "Disaster" includes disasters designated at level II  
 3207 and above in the American National Red Cross regulations and  
 3208 procedures.

3209 (3) LEAVE OF ABSENCE.-An employee of a state agency who is  
 3210 a certified disaster service volunteer of the American Red Cross  
 3211 may be granted a leave of absence with pay for up to ~~not more~~  
 3212 ~~than~~ 15 working days in any 12-month period to participate in  
 3213 specialized disaster relief services for the American Red Cross.  
 3214 Such leave of absence may be granted upon the request of the  
 3215 American Red Cross and upon the approval of the ~~employee's~~  
 3216 employing agency. An employee granted leave under this section  
 3217 may ~~shall~~ not be deemed ~~to be~~ an employee of the state for  
 3218 purposes of workers' compensation. Leave under this section ~~act~~  
 3219 may be granted only for services related to a disaster occurring  
 3220 within the boundaries of the State of Florida, except that, with

HB 1261

2012

3221 the approval of the Governor and Cabinet, leave may be granted  
 3222 for services in response to a disaster occurring within the  
 3223 boundaries of the United States.

3224 Section 60. Section 110.1091, Florida Statutes, is  
 3225 transferred, renumbered as section 112.914, Florida Statutes,  
 3226 and amended to read:

3227 112.914 ~~110.1091~~ Employee assistance programs; public  
 3228 records exemption.—

3229 (1) A ~~An employing~~ state agency may provide a counseling,  
 3230 therapeutic, or other professional treatment program to assist a  
 3231 ~~any~~ state employee who has a behavioral disorder, medical  
 3232 disorder, or substance abuse problem or who has an emotional  
 3233 difficulty that affects the employee's job performance. The ~~Each~~  
 3234 ~~employing state~~ agency may designate community diagnostic and  
 3235 referral resources as necessary to implement ~~the provisions of~~  
 3236 this subsection.

3237 (2) A state employee's personal identifying information  
 3238 contained in records held by a ~~an employing~~ state agency  
 3239 relating to an employee's participation in an employee  
 3240 assistance program is confidential and exempt from ~~the~~  
 3241 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State  
 3242 Constitution.

3243 Section 61. Section 110.151, Florida Statutes, is  
 3244 transferred, renumbered as section 112.915, Florida Statutes,  
 3245 and amended to read:

3246 112.915 ~~110.151~~ ~~State officers' and employees'~~ Child care  
 3247 services.—

3248 (1) A state agency that has established a child care

3249 program before June 1, 2011, may ~~The Department of Management~~  
 3250 ~~Services shall approve,~~ administer, and coordinate child care  
 3251 services for ~~state officers' and employees'~~ children or  
 3252 dependents as long as such child care program remains  
 3253 economically feasible. ~~Duties shall include, but not be limited~~  
 3254 ~~to, reviewing and approving requests from state agencies for~~  
 3255 ~~child care services; providing technical assistance on child~~  
 3256 ~~care program startup and operation; and assisting other agencies~~  
 3257 ~~in conducting needs assessments, designing centers, and~~  
 3258 ~~selecting service providers.~~ Primary emphasis for child care  
 3259 services shall be given to children who are not subject to  
 3260 compulsory school attendance pursuant to part II of chapter  
 3261 1003, and, to the extent possible, emphasis shall be placed on  
 3262 child care for children aged 2 and under.

3263 (2) Child care programs may be located in state-owned  
 3264 office buildings, educational facilities and institutions,  
 3265 custodial facilities and institutions, and, with the consent of  
 3266 the President of the Senate and the Speaker of the House of  
 3267 Representatives, ~~in~~ buildings or spaces used for legislative  
 3268 activities. In addition, centers may be located in privately  
 3269 owned buildings conveniently located near ~~to~~ the place of  
 3270 employment of those ~~officers and~~ employees to be served by the  
 3271 centers. If a child care program is located in a state-owned  
 3272 office building, educational facility or institution, or  
 3273 custodial facility or institution, ~~or~~ in a privately owned  
 3274 building leased by the state, a portion of the service  
 3275 provider's rental fees for child care space may be waived by the  
 3276 sponsoring agency in accordance with the rules of the

3277 department's Facilities Program ~~Department of Management~~  
 3278 ~~Services~~. Additionally, the sponsoring state agency may be  
 3279 responsible for the maintenance, utilities, and other operating  
 3280 costs associated with the child care center.

3281 (3) Except as otherwise provided in this section, the cost  
 3282 of child care services shall be offset by fees charged to  
 3283 employees who use the ~~child care~~ services. Requests for  
 3284 proposals may provide for a sliding fee schedule based on, ~~with~~  
 3285 ~~fees charged on the basis of~~ the employee's household income.

3286 (4) The provider of proposed child care services shall be  
 3287 selected by competitive contract. ~~Requests for proposals shall~~  
 3288 ~~be developed with the assistance of, and subject to the approval~~  
 3289 ~~of, the Department of Management Services~~. Management of the  
 3290 contract with the service provider is ~~shall be~~ the  
 3291 responsibility of the sponsoring state agency.

3292 (5) An operator selected to provide services must comply  
 3293 with all state and local standards for the licensure and  
 3294 operation of child care facilities, maintain adequate liability  
 3295 insurance coverage, and assume financial and legal  
 3296 responsibility for the operation of the program. ~~Neither~~ The  
 3297 operator of and ~~nor~~ any personnel employed by or at a child care  
 3298 facility may not ~~shall~~ be deemed ~~to be~~ employees of the state.  
 3299 However, the sponsoring state agency may be responsible for the  
 3300 operation of the child care center if ~~when~~:

3301 (a) A second request for proposals fails to procure a  
 3302 qualified service provider; or

3303 (b) The service provider's contract is canceled and  
 3304 attempts to procure another qualified service provider are

HB 1261

2012

3305 unsuccessful~~+~~

3306

3307 ~~and plans for direct operation are approved by the Department of~~  
 3308 ~~Management Services.~~

3309 (6) In the areas where the state has an insufficient  
 3310 number of employees to justify a worksite center, a state agency  
 3311 may join in a consortium arrangement using ~~utilizing~~ available  
 3312 state facilities with not-for-profit corporations or other  
 3313 public employers to provide child care services to ~~both~~ public  
 3314 employees and employees of private-sector ~~private-sector~~  
 3315 employers. The consortium agreement must first address the unmet  
 3316 child care needs of the children of the public employees whose  
 3317 employers are members of the consortium~~,~~ and then address the  
 3318 child care needs of private-sector ~~private-sector~~ employees.

3319 ~~(7) The Department of Management Services may adopt any~~  
 3320 ~~rules necessary to achieve the purposes of this section.~~

3321 Section 62. Section 110.181, Florida Statutes, is  
 3322 transferred and renumbered as section 112.916, Florida Statutes,  
 3323 and paragraph (b) of subsection (1) of that section is amended  
 3324 to read:

3325 112.916 ~~110.181~~ Florida State Employees' Charitable  
 3326 Campaign.—

3327 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—

3328 (b) State officers' and employees' contributions toward  
 3329 the Florida State Employees' Charitable Campaign must be  
 3330 entirely voluntary. State officers and employees must designate  
 3331 a charitable organization to receive such contributions.

3332 Section 63. Section 110.1225, Florida Statutes, is

HB 1261

2012

3333 transferred, renumbered as section 112.917, Florida Statutes,  
 3334 and amended to read:

3335 112.917 ~~110.1225~~ Furloughs.—~~If~~ When a deficit is projected  
 3336 ~~by the Revenue Estimating Conference pursuant to s. 216.136(3),~~  
 3337 in any state agency fund that supports salary and benefit  
 3338 appropriations, the agency Administration Commission may, upon  
 3339 approval by the Governor or the Chief Justice of the Supreme  
 3340 Court, propose a furlough plan to the Legislative Budget  
 3341 Commission Legislature, which must approve or disapprove such  
 3342 plan. The plan must identify all affected positions and ensure  
 3343 that all affected employees within a budget entity are subject  
 3344 to the same reduction of hours for the same number of pay  
 3345 periods with a commensurate reduction in pay. Additionally, when  
 3346 authorized by the Legislature as a cost-savings measure to  
 3347 address anticipated short-term shortfalls to funds that support  
 3348 salary and benefit appropriations for a specified fiscal year,  
 3349 an agency may impose furloughs as directed by the Legislature in  
 3350 the General Appropriations Act. For the purposes of this  
 3351 section, the term "furlough" means a temporary reduction in the  
 3352 regular hours of employment administered as leave without pay.

3353 Section 64. Section 110.1155, Florida Statutes, is  
 3354 transferred and renumbered as section 112.918, Florida Statutes.

3355 Section 65. Section 110.191, Florida Statutes, is  
 3356 transferred, renumbered as section 112.919, Florida Statutes,  
 3357 and amended to read:

3358 112.919 ~~110.191~~ State employee leasing.—

3359 (1) If ~~In situations where~~ the Legislature has expressly  
 3360 authorized a ~~the state, an agency, or the judicial branch as~~



HB 1261

2012

3361 ~~defined in s. 110.107~~ to lease employees, the Executive Office  
 3362 of the Governor for the executive branch or the Chief Justice  
 3363 for the judicial branch may authorize ~~any of~~ the following  
 3364 actions related to such state employee leasing activities,  
 3365 provided that the direct cost of such actions is to be paid or  
 3366 reimbursed within 30 days after payment by the entity or person  
 3367 to whom the employees are leased:

3368 (a) Creation of ~~Create~~ a separate budget entity from which  
 3369 leased employees are ~~shall be~~ paid and the transfer of the  
 3370 positions authorized to be leased to that budget entity.

3371 (b) ~~Provide~~ Increases in the operating budget entity.

3372 (c) ~~Authorized~~ Lump-sum salary bonuses to leased  
 3373 employees. ; However, any lump-sum salary bonus above the  
 3374 automatic salary increases which may be contained in the General  
 3375 Appropriations Act must be funded from private sources.

3376 (d) ~~Approve~~ Increases in salary rate for positions that  
 3377 ~~which~~ are leased. ; However, any salary rate above the automatic  
 3378 salary increases which may be contained in the General  
 3379 Appropriations Act must be funded from private sources.

3380 (e) The waiver of ~~Waive~~ any requirement for automatic  
 3381 salary increases that ~~which~~ may be contained in the General  
 3382 Appropriations Act.

3383 (2) Positions that ~~which~~ are in the Senior Management  
 3384 Service ~~System~~ or the Selected Exempt Service ~~System~~ on the day  
 3385 before the state employee lease agreement takes effect ~~shall~~  
 3386 remain in the respective system if the duties performed by the  
 3387 position during the assignment of the state employee lease  
 3388 agreement are comparable as determined by the department. Those

HB 1261

2012

3389 senior management service ~~System~~ or selected exempt service  
 3390 ~~System~~ positions that ~~which~~ are not determined comparable by the  
 3391 department, and positions that ~~which~~ are in other pay plans on  
 3392 the day before the lease agreement takes effect, shall ~~shall~~ have the  
 3393 same salaries and benefits provided to employees of the Office  
 3394 of the Governor pursuant to s. 110.205(2)(h)2. ~~110.205(2)(1)2.~~

3395 Section 66. Section 110.1082, Florida Statutes, is  
 3396 transferred, renumbered as section 112.920, Florida Statutes,  
 3397 and amended to read:

3398 112.920 ~~110.1082~~ Telephone voice mail systems and  
 3399 telephone menu options systems.—

3400 (1) A ~~No~~ state employee may not use ~~shall utilize~~ a voice  
 3401 mail system when the employee is at his or her regularly  
 3402 assigned work station where his or her telephone is functional  
 3403 and available for use, unless:

3404 (a) The telephone device ~~device~~ is in use, ~~and/or;~~

3405 (b) The ~~Such~~ voice mail system alerts the caller to, and  
 3406 provides the caller with access to, a nonelectronic attendant;  
 3407 or

3408 (c) The ~~Such~~ voice mail system automatically transfers the  
 3409 caller to a nonelectronic attendant.

3410 (2) Telephone menu options systems used by state agencies  
 3411 must, ~~departments, or other state government units will~~ alert  
 3412 the caller to, and provide the caller with access to, a  
 3413 nonelectronic attendant.

3414 (3) Agency heads shall ~~will~~ ensure compliance with ~~the~~  
 3415 ~~provisions of~~ this section.

3416 Section 67. Section 110.1165, Florida Statutes, is

HB 1261

2012

3417 transferred and renumbered as section 112.921, Florida Statutes,  
 3418 and subsections (1) and (2) of that section are amended to read:  
 3419 112.921 ~~110.1165~~ Executive branch personnel errors;  
 3420 limitation of actions for compensation.—

3421 (1) An agency of the executive branch, including the State  
 3422 University System, shall establish procedures for the receipt,  
 3423 consideration, and disposition of a claim regarding pay or  
 3424 benefits brought by an employee if the ~~when that~~ employee is  
 3425 damaged as a result of being provided with erroneous written  
 3426 information by the ~~employing~~ agency regarding his or her pay or  
 3427 benefits, and the employee detrimentally relies upon such  
 3428 written information. In order to qualify for ~~the relief provided~~  
 3429 ~~by this section~~, the employee's reliance on the representation  
 3430 must have been reasonable and based ~~only~~ upon only the written  
 3431 representations made by those persons authorized by the agency  
 3432 head to make such representations. ~~Furthermore,~~ The erroneous  
 3433 calculation and payment of an employee's salary, wages, or  
 3434 benefits is not among the written representations that ~~which~~  
 3435 ~~will~~ trigger relief under this section.

3436 (2) An agency of the executive branch, including the State  
 3437 University System, may ~~is authorized to~~ take appropriate ~~such~~  
 3438 ~~action as may be appropriate~~ to provide a remedy for an employee  
 3439 concerning his or her claim regarding detrimental reliance on  
 3440 erroneous written information provided by the ~~employing~~ agency  
 3441 relating to pay and benefits if, ~~provided~~ such remedy is within  
 3442 the purview of the agency's authority. The agency may not ~~has no~~  
 3443 ~~authority whatsoever~~ to modify the state retirement system or  
 3444 the state insurance program. Any monetary remedy afforded by the

HB 1261

2012

3445 agency must fall within the agency's budgetary authority. Any  
 3446 person dissatisfied with the outcome of this process may file  
 3447 ~~either~~ a grievance pursuant to the agency's internal grievance  
 3448 process or an appeal to the Division of Administrative Hearings  
 3449 pursuant to chapter 120, ~~but not both.~~

3450 Section 68. Section 112.922, Florida Statutes, is created  
 3451 to read:

3452 112.922 Penalties.—

3453 (1) Any person who willfully violates any provision of  
 3454 this part or any rules adopted pursuant to this part commits a  
 3455 misdemeanor of the second degree, punishable as provided in s.  
 3456 775.082 or s. 775.083.

3457 (2) Notwithstanding s. 112.011, any person who is  
 3458 convicted of a misdemeanor under this part is ineligible for  
 3459 appointment to or employment in the State Personnel System for 5  
 3460 years. If such person is an employee of the system, he or she  
 3461 shall forfeit his or her position.

3462 (3) Imposition of the penalties provided in this section  
 3463 may not be in lieu of any action that may be taken or penalties  
 3464 that may be imposed pursuant to part III of this chapter.

3465 Section 69. Section 110.113, Florida Statutes, is  
 3466 transferred, renumbered as section 112.923, Florida Statutes,  
 3467 and amended to read:

3468 112.923 ~~110.113~~ Pay periods for state officers and  
 3469 employees; salary payments by direct deposit.—

3470 (1) ~~The normal pay period for salaries of state officers~~  
 3471 ~~and employees shall be 1 month.~~ The Department of Financial  
 3472 Services shall issue ~~either~~ monthly or biweekly salary payments

HB 1261

2012

3473 ~~to state officers and employees by state warrants or by direct~~  
 3474 ~~deposit pursuant to s. 17.076 or make semimonthly salary~~  
 3475 ~~payments by direct deposit pursuant to s. 17.076,~~ as requested  
 3476 by each state employment system ~~the head of each state agency~~  
 3477 and approved by the ~~Executive Office of the Governor and the~~  
 3478 Department of Financial Services.

3479 (2) As a condition of employment, state employees must a  
 3480 ~~person appointed to a position in state government is required~~  
 3481 ~~to~~ participate in the direct deposit program pursuant to s.  
 3482 17.076. An employee may request an exemption from ~~the provisions~~  
 3483 ~~of~~ this subsection if the ~~when such~~ employee can demonstrate a  
 3484 hardship or if the ~~when such~~ employee is in an other-personal-  
 3485 services position.

3486 Section 70. Section 110.114, Florida Statutes, is  
 3487 transferred and renumbered as section 112.924, Florida Statutes.

3488 Section 71. Section 112.929, Florida Statutes, is created  
 3489 to read:

3490 112.929 Savings sharing program.—

3491 (1) Each agency that is authorized to adopt rules  
 3492 governing conditions of employment may adopt rules that  
 3493 prescribe procedures and promote a savings sharing program for  
 3494 an individual employee or group of employees who propose  
 3495 procedures or ideas that are adopted and that result in  
 3496 eliminating or reducing state expenditures, if such proposals  
 3497 are placed in effect and may be implemented under current  
 3498 statutory authority.

3499 (2) Each agency head shall recommend employees  
 3500 individually or by group to be awarded an amount of money, which

3501 amount shall be directly related to the cost savings realized.  
 3502 Each proposed award and amount of money must be approved by the  
 3503 Legislative Budget Commission.

3504 (3) Each state agency, unless otherwise provided by law,  
 3505 may participate in the program. The Chief Justice shall have the  
 3506 authority to establish a savings sharing program for employees  
 3507 of the judicial branch within the parameters established in this  
 3508 section. The program shall apply to all employees within the  
 3509 Career Service and the Selected Exempt Service and comparable  
 3510 employees within the judicial branch.

3511 (4) The department and the judicial branch shall submit  
 3512 annually to the President of the Senate and the Speaker of the  
 3513 House of Representatives information that outlines each agency's  
 3514 level of participation in the savings sharing program. The  
 3515 information shall include, but is not limited to:

3516 (a) The number of proposals made.

3517 (b) The number and dollar amounts of awards made to  
 3518 employees or groups for adopted proposals.

3519 (c) The actual cost savings realized as a result of  
 3520 implementing employee or group proposals.

3521 Section 72. The Division of Statutory Revision is  
 3522 requested to create part X of chapter 112, Florida Statutes,  
 3523 consisting of ss. 112.940-112.950, Florida Statutes, to be  
 3524 entitled "State Administered Benefits."

3525 Section 73. Section 110.1227, Florida Statutes, is  
 3526 transferred and renumbered as section 112.940, Florida Statutes,  
 3527 and paragraph (c) of subsection (1) of that section is amended  
 3528 to read:

HB 1261

2012

3529 |        112.940 ~~110.1227~~ Florida Employee Long-Term-Care Plan  
 3530 | Act.—

3531 |        (1) The Legislature finds that state expenditures for  
 3532 | long-term-care services continue to increase at a rapid rate and  
 3533 | that the state faces increasing pressure in its efforts to meet  
 3534 | the long-term-care needs of the public.

3535 |        (c) This act in no way affects the Department of  
 3536 | Management Services' authority pursuant to s. 112.942 ~~110.123~~.

3537 |        Section 74. Section 110.1228, Florida Statutes, is  
 3538 | transferred and renumbered as section 112.941, Florida Statutes,  
 3539 | and subsection (2) of that section is amended to read:

3540 |        112.941 ~~110.1228~~ Participation by small counties, small  
 3541 | municipalities, and district school boards located in small  
 3542 | counties.—

3543 |        (2) The governing body of a small county or small  
 3544 | municipality or a district school board may apply for  
 3545 | participation in the state group health insurance program  
 3546 | authorized in s. 112.942 ~~110.123~~ and the prescription drug  
 3547 | coverage program authorized by s. 112.944 ~~110.12315~~ by  
 3548 | submitting an application along with a \$500 nonrefundable fee to  
 3549 | the department.

3550 |        Section 75. Section 110.12301, Florida Statutes, is  
 3551 | transferred and renumbered as section 112.9422, Florida  
 3552 | Statutes, and subsection (1) of that section is amended to read:

3553 |        112.9422 ~~110.12301~~ Competitive procurement of postpayment  
 3554 | claims review services.—The Division of State Group Insurance is  
 3555 | directed to competitively procure:

3556 |        (1) Postpayment claims review services for the state group

HB 1261

2012

3557 health insurance plans established pursuant to s. 112.942  
 3558 ~~110.123~~. Compensation under the contract shall be paid from  
 3559 amounts identified as claim overpayments that are made by or on  
 3560 behalf of the health plans and that are recovered by the vendor.  
 3561 The vendor may retain that portion of the amount recovered as  
 3562 provided in the contract. The contract must require the vendor  
 3563 to maintain all necessary documentation supporting the amounts  
 3564 recovered, retained, and remitted to the division; and

3565 Section 76. Section 110.123, Florida Statutes, is  
 3566 transferred and renumbered as section 112.942, Florida Statutes,  
 3567 and paragraphs (f) and (h) of subsection (3) and paragraph (c)  
 3568 of subsection (4) of that section are amended to read:

3569 112.942 ~~110.123~~ State group insurance program.—

3570 (3) STATE GROUP INSURANCE PROGRAM.—

3571 (f) Except as provided for in subparagraph (h)2., the  
 3572 state contribution toward the cost of any plan in the state  
 3573 group insurance program shall be uniform with respect to all  
 3574 state employees in a state collective bargaining unit  
 3575 participating in the same coverage tier in the same plan. This  
 3576 section does not prohibit the development of separate benefit  
 3577 plans for officers and employees exempt from the Civil ~~career~~  
 3578 Service or the development of separate benefit plans for each  
 3579 collective bargaining unit.

3580 (h)1. A person eligible to participate in the state group  
 3581 insurance program may be authorized by rules adopted by the  
 3582 department, in lieu of participating in the state group health  
 3583 insurance plan, to exercise an option to elect membership in a  
 3584 health maintenance organization plan which is under contract



HB 1261

2012

3585 with the state in accordance with criteria established by this  
 3586 section and by said rules. The offer of optional membership in a  
 3587 health maintenance organization plan permitted by this paragraph  
 3588 may be limited or conditioned by rule as may be necessary to  
 3589 meet the requirements of state and federal laws.

3590 2. The department shall contract with health maintenance  
 3591 organizations seeking to participate in the state group  
 3592 insurance program through a request for proposal or other  
 3593 procurement process, as developed by the Department of  
 3594 Management Services and determined to be appropriate.

3595 a. The department shall establish a schedule of minimum  
 3596 benefits for health maintenance organization coverage, and that  
 3597 schedule shall include: physician services; inpatient and  
 3598 outpatient hospital services; emergency medical services,  
 3599 including out-of-area emergency coverage; diagnostic laboratory  
 3600 and diagnostic and therapeutic radiologic services; mental  
 3601 health, alcohol, and chemical dependency treatment services  
 3602 meeting the minimum requirements of state and federal law;  
 3603 skilled nursing facilities and services; prescription drugs;  
 3604 age-based and gender-based wellness benefits; and other benefits  
 3605 as may be required by the department. Additional services may be  
 3606 provided subject to the contract between the department and the  
 3607 HMO. As used in this paragraph, the term "age-based and gender-  
 3608 based wellness benefits" includes aerobic exercise, education in  
 3609 alcohol and substance abuse prevention, blood cholesterol  
 3610 screening, health risk appraisals, blood pressure screening and  
 3611 education, nutrition education, program planning, safety belt  
 3612 education, smoking cessation, stress management, weight

3613 management, and women's health education.

3614       b. The department may establish uniform deductibles,  
 3615 copayments, coverage tiers, or coinsurance schedules for all  
 3616 participating HMO plans.

3617       c. The department may require detailed information from  
 3618 each health maintenance organization participating in the  
 3619 procurement process, including information pertaining to  
 3620 organizational status, experience in providing prepaid health  
 3621 benefits, accessibility of services, financial stability of the  
 3622 plan, quality of management services, accreditation status,  
 3623 quality of medical services, network access and adequacy,  
 3624 performance measurement, ability to meet the department's  
 3625 reporting requirements, and the actuarial basis of the proposed  
 3626 rates and other data determined by the director to be necessary  
 3627 for the evaluation and selection of health maintenance  
 3628 organization plans and negotiation of appropriate rates for  
 3629 these plans. Upon receipt of proposals by health maintenance  
 3630 organization plans and the evaluation of those proposals, the  
 3631 department may enter into negotiations with all of the plans or  
 3632 a subset of the plans, as the department determines appropriate.  
 3633 Nothing shall preclude the department from negotiating regional  
 3634 or statewide contracts with health maintenance organization  
 3635 plans when this is cost-effective and when the department  
 3636 determines that the plan offers high value to enrollees.

3637       d. The department may limit the number of HMOs that it  
 3638 contracts with in each service area based on the nature of the  
 3639 bids the department receives, the number of state employees in  
 3640 the service area, or any unique geographical characteristics of

3641 the service area. The department shall establish by rule service  
 3642 areas throughout the state.

3643 e. All persons participating in the state group insurance  
 3644 program may be required to contribute towards a total state  
 3645 group health premium that may vary depending upon the plan and  
 3646 coverage tier selected by the enrollee and the level of state  
 3647 contribution authorized by the Legislature.

3648 3. The department is authorized to negotiate and to  
 3649 contract with specialty psychiatric hospitals for mental health  
 3650 benefits, on a regional basis, for alcohol, drug abuse, and  
 3651 mental and nervous disorders. The department may establish,  
 3652 subject to the approval of the Legislature pursuant to  
 3653 subsection (5), any such regional plan upon completion of an  
 3654 actuarial study to determine any impact on plan benefits and  
 3655 premiums.

3656 4. In addition to contracting pursuant to subparagraph 2.,  
 3657 the department may enter into contract with any HMO to  
 3658 participate in the state group insurance program which:

3659 a. Serves greater than 5,000 recipients on a prepaid basis  
 3660 under the Medicaid program;

3661 b. Does not currently meet the 25-percent non-  
 3662 Medicare/non-Medicaid enrollment composition requirement  
 3663 established by the Department of Health excluding participants  
 3664 enrolled in the state group insurance program;

3665 c. Meets the minimum benefit package and copayments and  
 3666 deductibles contained in sub-subparagraphs 2.a. and b.;

3667 d. Is willing to participate in the state group insurance  
 3668 program at a cost of premiums that is not greater than 95

HB 1261

2012

3669 percent of the cost of HMO premiums accepted by the department  
3670 in each service area; and

3671 e. Meets the minimum surplus requirements of s. 641.225.

3672

3673 The department is authorized to contract with HMOs that meet the  
3674 requirements of sub-subparagraphs a.-d. prior to the open  
3675 enrollment period for state employees. The department is not  
3676 required to renew the contract with the HMOs as set forth in  
3677 this paragraph more than twice. Thereafter, the HMOs shall be  
3678 eligible to participate in the state group insurance program  
3679 only through the request for proposal or invitation to negotiate  
3680 process described in subparagraph 2.

3681 5. All enrollees in a state group health insurance plan, a  
3682 TRICARE supplemental insurance plan, or any health maintenance  
3683 organization plan have the option of changing to any other  
3684 health plan that is offered by the state within any open  
3685 enrollment period designated by the department. Open enrollment  
3686 shall be held at least once each calendar year.

3687 6. When a contract between a treating provider and the  
3688 state-contracted health maintenance organization is terminated  
3689 for any reason other than for cause, each party shall allow any  
3690 enrollee for whom treatment was active to continue coverage and  
3691 care when medically necessary, through completion of treatment  
3692 of a condition for which the enrollee was receiving care at the  
3693 time of the termination, until the enrollee selects another  
3694 treating provider, or until the next open enrollment period  
3695 offered, whichever is longer, but no longer than 6 months after  
3696 termination of the contract. Each party to the terminated

HB 1261

2012

3697 contract shall allow an enrollee who has initiated a course of  
3698 prenatal care, regardless of the trimester in which care was  
3699 initiated, to continue care and coverage until completion of  
3700 postpartum care. This does not prevent a provider from refusing  
3701 to continue to provide care to an enrollee who is abusive,  
3702 noncompliant, or in arrears in payments for services provided.  
3703 For care continued under this subparagraph, the program and the  
3704 provider shall continue to be bound by the terms of the  
3705 terminated contract. Changes made within 30 days before  
3706 termination of a contract are effective only if agreed to by  
3707 both parties.

3708         7. Any HMO participating in the state group insurance  
3709 program shall submit health care utilization and cost data to  
3710 the department, in such form and in such manner as the  
3711 department shall require, as a condition of participating in the  
3712 program. The department shall enter into negotiations with its  
3713 contracting HMOs to determine the nature and scope of the data  
3714 submission and the final requirements, format, penalties  
3715 associated with noncompliance, and timetables for submission.  
3716 These determinations shall be adopted by rule.

3717         8. The department may establish and direct, with respect  
3718 to collective bargaining issues, a comprehensive package of  
3719 insurance benefits that may include supplemental health and life  
3720 coverage, dental care, long-term care, vision care, and other  
3721 benefits it determines necessary to enable state employees to  
3722 select from among benefit options that best suit their  
3723 individual and family needs.

3724         a. Based upon a desired benefit package, the department

HB 1261

2012

3725 shall issue a request for proposal or invitation to negotiate  
3726 for health insurance providers interested in participating in  
3727 the state group insurance program, and the department shall  
3728 issue a request for proposal or invitation to negotiate for  
3729 insurance providers interested in participating in the non-  
3730 health-related components of the state group insurance program.  
3731 Upon receipt of all proposals, the department may enter into  
3732 contract negotiations with insurance providers submitting bids  
3733 or negotiate a specially designed benefit package. Insurance  
3734 providers offering or providing supplemental coverage as of May  
3735 30, 1991, which qualify for pretax benefit treatment pursuant to  
3736 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more  
3737 state employees currently enrolled may be included by the  
3738 department in the supplemental insurance benefit plan  
3739 established by the department without participating in a request  
3740 for proposal, submitting bids, negotiating contracts, or  
3741 negotiating a specially designed benefit package. These  
3742 contracts shall provide state employees with the most cost-  
3743 effective and comprehensive coverage available; however, no  
3744 state or agency funds shall be contributed toward the cost of  
3745 any part of the premium of such supplemental benefit plans. With  
3746 respect to dental coverage, the division shall include in any  
3747 solicitation or contract for any state group dental program made  
3748 after July 1, 2001, a comprehensive indemnity dental plan option  
3749 which offers enrollees a completely unrestricted choice of  
3750 dentists. If a dental plan is endorsed, or in some manner  
3751 recognized as the preferred product, such plan shall include a  
3752 comprehensive indemnity dental plan option which provides

HB 1261

2012

3753 enrollees with a completely unrestricted choice of dentists.

3754       b. Pursuant to the applicable provisions of s. 112.949  
 3755 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the  
 3756 department shall enroll in the pretax benefit program those  
 3757 state employees who voluntarily elect coverage in any of the  
 3758 supplemental insurance benefit plans as provided by sub-  
 3759 subparagraph a.

3760       c. Nothing herein contained shall be construed to prohibit  
 3761 insurance providers from continuing to provide or offer  
 3762 supplemental benefit coverage to state employees as provided  
 3763 under existing agency plans.

3764       (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION  
 3765 ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

3766       (c) During each policy or budget year, no state agency  
 3767 shall contribute a greater dollar amount of the premium cost for  
 3768 its officers or employees for any plan option under the state  
 3769 group insurance program than any other agency for similar  
 3770 officers and employees, nor shall any greater dollar amount of  
 3771 premium cost be made for employees in one state collective  
 3772 bargaining unit than for those in any other state collective  
 3773 bargaining unit. Nothing in this section prohibits the use of  
 3774 different levels of state contributions for positions exempt  
 3775 from the Civil ~~career~~ Service.

3776       Section 77. Section 110.12312, Florida Statutes, is  
 3777 transferred, renumbered as section 112.943, Florida Statutes,  
 3778 and amended to read:

3779       112.943 ~~110.12312~~ Open enrollment period for retirees.—On  
 3780 or after July 1, 1997, the Department of Management Services

3781 shall provide for an open enrollment period for retired state  
 3782 employees who want to obtain health insurance coverage under ss.  
 3783 112.942 and 112.944 ~~110.123 and 110.12315~~. The options offered  
 3784 during the open enrollment period must provide the same health  
 3785 insurance coverage as the coverage provided to active employees  
 3786 under the same premium payment conditions in effect for covered  
 3787 retirees, including eligibility for health insurance subsidy  
 3788 payments under s. 112.363. A person who separates from  
 3789 employment subsequent to May 1, 1988, but whose date of  
 3790 retirement occurs on or after August 1, 1995, is eligible as of  
 3791 the first open enrollment period occurring after July 1, 1997,  
 3792 with an effective date of January 1, 1998, as long as the  
 3793 retiree's enrollment remains in effect.

3794 Section 78. Section 110.12315, Florida Statutes, is  
 3795 transferred and renumbered as section 112.944, Florida Statutes.

3796 Section 79. Section 110.1232, Florida Statutes, is  
 3797 transferred, renumbered as section 112.945, Florida Statutes,  
 3798 and amended to read:

3799 112.945 ~~110.1232~~ Health insurance coverage for persons  
 3800 retired under state-administered retirement systems before  
 3801 January 1, 1976, and for spouses.—Notwithstanding any provisions  
 3802 of law to the contrary, the Department of Management Services  
 3803 shall provide health insurance coverage under the state group  
 3804 insurance program for persons who retired before January 1,  
 3805 1976, under any of the state-administered retirement systems and  
 3806 who are not covered by social security and for the spouses and  
 3807 surviving spouses of such retirees who are also not covered by  
 3808 social security. Such health insurance coverage shall provide



HB 1261

2012

3809 the same benefits as provided to other retirees who are entitled  
 3810 to participate under s. 112.942 ~~110.123~~. The claims experience  
 3811 of this group shall be commingled with the claims experience of  
 3812 other members covered under s. 112.942 ~~110.123~~.

3813 Section 80. Section 110.1234, Florida Statutes, is  
 3814 transferred and renumbered as section 112.946, Florida Statutes.

3815 Section 81. Section 110.1238, Florida Statutes, is  
 3816 transferred and renumbered as section 112.947, Florida Statutes.

3817 Section 82. Section 110.1239, Florida Statutes, is  
 3818 transferred and renumbered as section 112.948, Florida Statutes.

3819 Section 83. Section 110.161, Florida Statutes, is  
 3820 transferred and renumbered as section 112.949, Florida Statutes,  
 3821 and paragraph (a) of subsection (6) of that section is amended  
 3822 to read:

3823 112.949 ~~110.161~~ State employees; pretax benefits program.—

3824 (6) The Department of Management Services is authorized to  
 3825 administer the pretax benefits program established for all  
 3826 employees so that employees may receive benefits that are not  
 3827 includable in gross income under the Internal Revenue Code of  
 3828 1986. The pretax benefits program:

3829 (a) Shall allow employee contributions to premiums for the  
 3830 state group insurance program administered under s. 112.942  
 3831 ~~110.123~~ to be paid on a pretax basis unless an employee elects  
 3832 not to participate.

3833 Section 84. Section 112.950, Florida Statutes, is created  
 3834 to read:

3835 112.950 Penalties.—

3836 (1) Any person who willfully violates any provision of

HB 1261

2012

3837 this part or any rules adopted pursuant to this part commits a  
 3838 misdemeanor of the second degree, punishable as provided in s.  
 3839 775.082 or s. 775.083.

3840 (2) Notwithstanding s. 112.011, any person who is  
 3841 convicted of a misdemeanor under this part is ineligible for  
 3842 appointment to or employment in the State Personnel System for 5  
 3843 years and, if an employee of the system, shall forfeit his or  
 3844 her position.

3845 (3) Imposition of the penalties provided in this section  
 3846 may not be in lieu of any action that may be taken or penalties  
 3847 that may be imposed pursuant to part III of this chapter.

3848 Section 85. The Division of Statutory Revision is  
 3849 requested to renumber part IV of chapter 110, Florida Statutes,  
 3850 as part XI of chapter 112, consisting of ss. 112.961-112.965,  
 3851 Florida Statutes, and to rename that part as "State Volunteer  
 3852 Services."

3853 Section 86. Section 110.501, Florida Statutes, is  
 3854 transferred, renumbered as section 112.961, Florida Statutes,  
 3855 and amended to read:

3856 112.961 110.501 Definitions.—As used in this part, the  
 3857 term ~~act~~:

3858 ~~(2) "Regular-service volunteer" means any person engaged~~  
 3859 ~~in specific voluntary service activities on an ongoing or~~  
 3860 ~~continuous basis.~~

3861 ~~(3) "Occasional-service volunteer" means any person who~~  
 3862 ~~offers to provide a one-time or occasional voluntary service.~~

3863 (1)(4) "Material donor" means any person who provides  
 3864 funds, materials, employment, or opportunities for clients of

HB 1261

2012

3865 | state ~~departments or~~ agencies, without monetary or material  
 3866 | compensation.

3867 |       (2) "State agency" or "agency" means any official,  
 3868 | officer, commission, board, authority, council, committee, or  
 3869 | department of the executive branch or judicial branch of state  
 3870 | government as defined in chapter 216, unless otherwise exempted  
 3871 | by law.

3872 |       (3)~~(1)~~ "Volunteer" means any person who, of his or her own  
 3873 | free will, provides goods or services, or conveys an interest in  
 3874 | or otherwise consents to the use of real property pursuant to  
 3875 | chapter 260, to any ~~state department or~~ agency, or nonprofit  
 3876 | organization, with no monetary or material compensation. A  
 3877 | person registered and serving in Older American Volunteer  
 3878 | Programs authorized by the Domestic Volunteer Service Act of  
 3879 | 1973, as amended (Pub. L. No. 93-113), shall also be defined as  
 3880 | a volunteer and shall incur no civil liability as provided by s.  
 3881 | 768.1355. A volunteer shall be eligible for payment of volunteer  
 3882 | benefits as specified in Pub. L. No. 93-113, this section, and  
 3883 | s. 430.204.

3884 |  
 3885 |       Section 87. Section 110.502, Florida Statutes, is  
 3886 | transferred, renumbered as section 112.962, Florida Statutes,  
 3887 | and amended to read:

3888 |       112.962 ~~110.502~~ Scope of act; status of volunteers.—

3889 |       (1) Every ~~state department or~~ state agency may, with the  
 3890 | approval of the agency head, through the head of the department  
 3891 | or agency, secretary of the department, or executive director of  
 3892 | the department, is authorized to recruit, train, and accept,

3893 without regard to the requirements of the Civil State Career  
 3894 Service System as set forth in part II of this chapter, the  
 3895 services of volunteers, ~~including regular-service volunteers,~~  
 3896 ~~occasional-service volunteers,~~ or material donors, to assist in  
 3897 programs administered by the ~~department or~~ agency.

3898 (2) Volunteers recruited, trained, or accepted by a any  
 3899 state ~~department or~~ agency are ~~shall~~ not be subject to any  
 3900 provisions of law relating to state employment, a ~~to any~~  
 3901 collective bargaining agreement between the state and any  
 3902 employees' association or union, or ~~to~~ any laws relating to  
 3903 hours of work, rates of compensation, leave time, and employee  
 3904 benefits, except those consistent with s. 112.964 ~~110.504~~.  
 3905 However, all volunteers shall comply with applicable ~~department~~  
 3906 ~~or~~ agency rules. Volunteers may be required by the agency to  
 3907 submit to security background screenings.

3908 (3) Every state department or agency using ~~utilizing~~ the  
 3909 services of volunteers may ~~is hereby authorized to~~ provide such  
 3910 incidental reimbursement or benefit consistent with ~~the~~  
 3911 ~~provisions of~~ s. 112.964 ~~110.504~~, including transportation  
 3912 costs, lodging, ~~and~~ subsistence, identification and safety  
 3913 apparel, recognition, and other accommodations as the ~~department~~  
 3914 ~~or~~ agency deems necessary to assist, recognize, reward, or  
 3915 encourage volunteers in performing their functions. An ~~No~~  
 3916 ~~department or~~ agency may not ~~shall~~ expend or authorize an  
 3917 expenditure greater than ~~therefor in excess of~~ the amount  
 3918 provided for to the ~~department or~~ agency by appropriation in any  
 3919 fiscal year.

3920 (4) Persons working with state agencies pursuant to this

HB 1261

2012

3921 part are ~~shall be~~ considered as unpaid independent volunteers  
 3922 and are ~~shall not be~~ entitled to unemployment compensation.

3923 Section 88. Section 110.503, Florida Statutes, is  
 3924 transferred, renumbered as section 112.963, Florida Statutes,  
 3925 and amended to read:

3926 112.963 ~~110.503~~ Responsibilities of state departments and  
 3927 agencies.—Each state department or agency using ~~utilizing~~ the  
 3928 services of volunteers shall take such actions as are necessary  
 3929 to:

3930 (1) ~~Take such actions as are necessary and appropriate to~~  
 3931 Develop meaningful opportunities for volunteers involved in  
 3932 state-administered programs.

3933 (2) Ensure that volunteers are provided with the state  
 3934 agency's policies and procedures applicable to their volunteer  
 3935 activities. ~~Comply with the uniform rules adopted by the~~  
 3936 ~~Department of Management Services governing the recruitment,~~  
 3937 ~~screening, training, responsibility, use, and supervision of~~  
 3938 ~~volunteers.~~

3939 (3) ~~Take such actions as are necessary to~~ Ensure that  
 3940 volunteers understand their duties and responsibilities.

3941 (4) Ensure that a state employee whose primary employment  
 3942 consists of duties and responsibilities similar to those  
 3943 associated with volunteer activities is not considered for  
 3944 volunteer work if such work would require payment for overtime  
 3945 in accordance with the Fair Labor Standards Act.

3946 (4) ~~Take such actions as are necessary and appropriate to~~  
 3947 ~~ensure a receptive climate for citizen volunteers.~~

3948 (5) ~~Provide for the recognition of volunteers who have~~

3949 ~~offered continuous and outstanding service to state-administered~~  
 3950 ~~programs. Each department or agency using the services of~~  
 3951 ~~volunteers is authorized to incur expenditures not to exceed~~  
 3952 ~~\$100 each plus applicable taxes for suitable framed~~  
 3953 ~~certificates, plaques, or other tokens of recognition to honor,~~  
 3954 ~~reward, or encourage volunteers for their service.~~

3955 ~~(6) Recognize prior volunteer service as partial~~  
 3956 ~~fulfillment of state employment requirements for training and~~  
 3957 ~~experience pursuant to rules adopted by the Department of~~  
 3958 ~~Management Services.~~

3959 Section 89. Section 110.504, Florida Statutes, is  
 3960 transferred, renumbered as section 112.964, Florida Statutes,  
 3961 and amended to read:

3962 112.964 ~~110.504~~ Volunteer benefits.—

3963 (1) Meals may be furnished without charge to ~~regular-~~  
 3964 ~~service~~ volunteers serving state agencies if departments,  
 3965 ~~provided~~ the scheduled assignment extends over an established  
 3966 meal period, ~~and to occasional-service volunteers at the~~  
 3967 ~~discretion of the department head. An agency may not~~ No  
 3968 ~~department shall~~ expend or authorize any expenditure greater  
 3969 than ~~in excess of~~ the amount provided for by appropriation in  
 3970 any fiscal year.

3971 (2) Lodging, if available, may be furnished temporarily,  
 3972 in case of an agency ~~a department~~ emergency, at no charge to  
 3973 ~~regular-service~~ volunteers.

3974 (3) Transportation reimbursement may be furnished to those  
 3975 volunteers whose presence is determined to be necessary to the  
 3976 agency ~~department~~. Volunteers may use ~~utilize~~ state vehicles in

HB 1261

2012

3977 the performance of agency-related ~~department-related~~ duties. An  
 3978 agency may not ~~No department shall~~ expend or authorize an  
 3979 expenditure greater than ~~in excess of~~ the amount appropriated in  
 3980 any fiscal year.

3981 (4) Volunteers are ~~shall be~~ covered by state liability  
 3982 protection in accordance with the definition of a volunteer and  
 3983 ~~the provisions of~~ s. 768.28.

3984 (5) Volunteers shall be covered by workers' compensation  
 3985 in accordance with chapter 440.

3986 (6) Incidental recognition benefits or incidental  
 3987 nonmonetary awards may be furnished to volunteers serving in  
 3988 state agencies ~~departments~~ to award, recognize, or encourage  
 3989 volunteers for their service. The awards may not cost more than  
 3990 ~~in excess of~~ \$100 each plus applicable taxes.

3991 (7) Volunteers, including volunteers receiving a stipend  
 3992 as provided by the Domestic Service Volunteer Act of 1973, as  
 3993 amended (Pub. L. No. 93-113), are ~~shall be~~ covered by s.  
 3994 768.1355, the Florida Volunteer Protection Act.

3995 Section 90. Section 112.965, Florida Statutes, is created  
 3996 to read:

3997 112.965 Penalties.—

3998 (1) Any person who willfully violates any provision of  
 3999 this part or any rules adopted pursuant to this part commits a  
 4000 misdemeanor of the second degree, punishable as provided in s.  
 4001 775.082 or s. 775.083.

4002 (2) Notwithstanding s. 112.011, any person who is  
 4003 convicted of a misdemeanor under this part is ineligible for  
 4004 appointment to or employment in the State Personnel System for 5

HB 1261

2012

4005 years and, if an employee of the system, shall forfeit his or  
 4006 her position.

4007 (3) Imposition of the penalties provided in this section  
 4008 may not be in lieu of any action that may be taken or penalties  
 4009 that may be imposed pursuant to part III of this chapter.

4010 Section 91. Sections 110.115, 110.118, 110.124, 110.129,  
 4011 110.1521, 110.1522, 110.1523, 110.201, 110.2035, 110.21,  
 4012 110.221, 110.406, 110.603, 110.604, and 110.606, Florida  
 4013 Statutes, are repealed.

4014 Section 92. Paragraph (b) of subsection (1) of section  
 4015 11.13, Florida Statutes, is amended to read:

4016 11.13 Compensation of members.—

4017 (1)

4018 (b) On Effective July 1, 1986, and each July 1 of each  
 4019 year thereafter, the annual salaries of members of the Senate  
 4020 and House of Representatives shall be adjusted by the average  
 4021 percentage increase in the salaries of civil state-career  
 4022 service employees for the fiscal year just concluded. The  
 4023 Appropriations Committee of each house shall certify to the  
 4024 Office of Legislative Services the average percentage increase  
 4025 in the salaries of civil state-career service employees before  
 4026 July 1 of each year. The Office of Legislative Services shall,  
 4027 as of July 1 of each year, determine the adjusted annual  
 4028 salaries as provided in this paragraph herein.

4029 Section 93. Paragraph (c) of subsection (1) of section  
 4030 20.055, Florida Statutes, is amended to read:

4031 20.055 Agency inspectors general.—

4032 (1) For the purposes of this section:



HB 1261

2012

4033 (c) "Individuals substantially affected" means natural  
 4034 persons who have established a real and sufficiently immediate  
 4035 injury in fact due to the findings, conclusions, or  
 4036 recommendations of a final report of a state agency inspector  
 4037 general, who are the subject of the audit or investigation, and  
 4038 who do not have or are not currently afforded an existing right  
 4039 to an independent review process. The term does not include:

4040 1. Employees of the state, including civil ~~career~~ service,  
 4041 probationary, other personal service, selected exempt service,  
 4042 and senior management service employees, ~~are not covered by this~~  
 4043 ~~definition.~~

4044 2. ~~This definition also does not cover~~ Former employees of  
 4045 the state if the final report of the state agency inspector  
 4046 general relates to matters arising during a former employee's  
 4047 term of state employment.

4048 3. ~~This definition does not apply to~~ Persons who are the  
 4049 subject of audits or investigations conducted pursuant to ss.  
 4050 112.3187-112.31895 or s. 409.913 or that ~~which~~ are otherwise  
 4051 confidential and exempt under s. 119.07.

4052 Section 94. Subsection (6) of section 20.21, Florida  
 4053 Statutes, is amended to read:

4054 20.21 Department of Revenue.—There is created a Department  
 4055 of Revenue.

4056 (6) Notwithstanding ~~the provisions of~~ s. 112.942 ~~110.123~~,  
 4057 relating to the state group insurance program, the department  
 4058 may pay, or participate in the payment of, premiums for health,  
 4059 accident, and life insurance for its full-time out-of-state  
 4060 employees, pursuant to such rules as it may adopt, which ~~and~~

HB 1261

2012

4061 ~~such payments are shall be~~ in addition to the employees' regular  
 4062 salaries ~~of such full-time out-of-state employees.~~

4063 Section 95. Paragraph (e) of subsection (1) and subsection  
 4064 (6) of section 20.23, Florida Statutes, are amended to read:

4065 20.23 Department of Transportation.—There is created a  
 4066 Department of Transportation which shall be a decentralized  
 4067 agency.

4068 (1)

4069 (e) ~~The Any~~ secretary ~~appointed after July 5, 1989,~~ and  
 4070 ~~the~~ assistant secretaries are shall be exempt from ~~the~~  
 4071 ~~provisions of part IV III~~ of chapter 110 and shall receive  
 4072 compensation commensurate with their qualifications and  
 4073 competitive with compensation for comparable responsibility in  
 4074 the private sector.

4075 (6) Notwithstanding ~~the provisions of s. 110.205,~~ the  
 4076 Department of Management Services may is ~~authorized to~~ exempt  
 4077 positions within the Department of Transportation that ~~which~~ are  
 4078 comparable to positions within the Senior Management Service  
 4079 pursuant to s. 110.205(2)(g) ~~110.205(2)(j)~~ or positions that  
 4080 ~~which~~ are comparable to positions in the Selected Exempt Service  
 4081 under s. 110.205(2)(i) ~~110.205(2)(m)~~.

4082 Section 96. Subsection (2) of section 20.255, Florida  
 4083 Statutes, is amended to read:

4084 20.255 Department of Environmental Protection.—There is  
 4085 created a Department of Environmental Protection.

4086 (2) (a) There shall be three deputy secretaries who are to  
 4087 be appointed by and shall serve at the pleasure of the  
 4088 secretary. The secretary may assign any deputy secretary the

HB 1261

2012

4089 responsibility to supervise, coordinate, and formulate policy  
 4090 for any division, office, or district. The following special  
 4091 offices are established and headed by managers, each of whom is  
 4092 to be appointed by and serve at the pleasure of the secretary:

- 4093 1. Office of Chief of Staff;
- 4094 2. Office of General Counsel;
- 4095 3. Office of Inspector General;
- 4096 4. Office of External Affairs;
- 4097 5. Office of Legislative Affairs;
- 4098 6. Office of Intergovernmental Programs; and
- 4099 7. Office of Greenways and Trails.

4100 (b) There shall be six administrative districts involved  
 4101 in regulatory matters of waste management, water resource  
 4102 management, wetlands, and air resources, which shall be headed  
 4103 by managers, each of whom is to be appointed by and serve at the  
 4104 pleasure of the secretary. Divisions of the department may have  
 4105 one assistant or two deputy division directors, as required to  
 4106 facilitate effective operation.

4107  
 4108 The managers of all divisions and offices specifically named in  
 4109 this section and the directors of the six administrative  
 4110 districts are exempt from part II of chapter 110 and are  
 4111 included in the Senior Management Service in accordance with s.  
 4112 110.205(2)(g) ~~110.205(2)(j)~~.

4113 Section 97. Paragraph (d) of subsection (19) of section  
 4114 24.105, Florida Statutes, is amended to read:

4115 24.105 Powers and duties of department.—The department  
 4116 shall:

HB 1261

2012

4117 (19) Employ division directors and other staff as may be  
4118 necessary to carry out the provisions of this act; however:

4119 (d) The department shall establish and maintain a  
4120 personnel program for its employees, including a personnel  
4121 classification and pay plan that ~~which~~ may provide ~~any or all of~~  
4122 the benefits provided in the Senior Management Service or  
4123 Selected Exempt Service. Each officer or employee of the  
4124 department is ~~shall be~~ a member of the Florida Retirement  
4125 System. The retirement class of each officer or employee is  
4126 ~~shall be~~ the same as other persons performing comparable  
4127 functions for other agencies. Employees of the department shall  
4128 serve at the pleasure of the secretary and are ~~shall be~~ subject  
4129 to suspension, dismissal, reduction in pay, demotion, transfer,  
4130 or other personnel action at the discretion of the secretary.  
4131 Such personnel actions are exempt from ~~the provisions of~~ chapter  
4132 120. All employees of the department are exempt from the Civil  
4133 ~~Career Service System~~ provided in chapter 110 and,  
4134 notwithstanding ~~the provisions of~~ s. 110.205(3) ~~110.205(5)~~, are  
4135 not included in ~~either~~ the Senior Management Service or the  
4136 Selected Exempt Service. However, all employees of the  
4137 department are subject to all standards of conduct adopted by  
4138 rule for civil ~~career~~ service and senior management service  
4139 employees pursuant to chapter 110. In the event of a conflict  
4140 between standards of conduct applicable to employees of the  
4141 Department of the Lottery, the more restrictive standard applies  
4142 ~~shall apply~~. Interpretations as to the more restrictive standard  
4143 may be provided by the Commission on Ethics upon request of an  
4144 advisory opinion pursuant to s. 112.322(3)(a), and for purposes

HB 1261

2012

4145 of this paragraph, ~~subsection~~ the opinion shall be considered  
 4146 final action.

4147 Section 98. Paragraph (d) of subsection (4) of section  
 4148 24.122, Florida Statutes, is amended to read:

4149 24.122 Exemption from taxation; state preemption;  
 4150 inapplicability of other laws.—

4151 (4) Any state or local law providing any penalty,  
 4152 disability, restriction, or prohibition for the possession,  
 4153 manufacture, transportation, distribution, advertising, or sale  
 4154 of any lottery ticket, including chapter 849, shall not apply to  
 4155 the tickets of the state lottery operated pursuant to this act;  
 4156 nor shall any such law apply to the possession of a ticket  
 4157 issued by any other government-operated lottery. In addition,  
 4158 activities of the department under this act are exempt from the  
 4159 provisions of:

4160 (d) Section 112.907 ~~110.131~~, relating to other personal  
 4161 services.

4162 Section 99. Paragraph (b) of subsection (1) of section  
 4163 30.071, Florida Statutes, is amended to read:

4164 30.071 Applicability and scope of act.—

4165 (1) This act applies to all deputy sheriffs, with the  
 4166 following exceptions:

4167 (b) Deputy sheriffs in a county that, by special act of  
 4168 the Legislature, local charter, ordinance, or otherwise, has  
 4169 established a civil ~~or career~~ service system that ~~which~~ grants  
 4170 collective bargaining rights for deputy sheriffs, including, but  
 4171 not limited to, deputy sheriffs in the following counties:  
 4172 Broward, Miami-Dade, Duval, Escambia, and Volusia.

HB 1261

2012

4173 Section 100. Subsection (4) of section 43.16, Florida  
 4174 Statutes, is amended to read:

4175 43.16 Justice Administrative Commission; membership,  
 4176 powers and duties.—

4177 (4) (a) The Justice Administrative Commission shall employ  
 4178 an executive director and fix his or her salary. The executive  
 4179 director shall employ any necessary personnel for the efficient  
 4180 performance of the commission according to a classification and  
 4181 pay plan annually approved by the commission.

4182 (b) Pursuant to s. 110.205(2)(r), all employees of ~~or~~  
 4183 ~~within~~ the commission are exempt from the Civil Career Service  
 4184 ~~System provided in chapter 110~~ and, notwithstanding s.  
 4185 110.205(3) ~~110.205(5)~~, are not included in the Senior Management  
 4186 Service or the Selected Exempt Service. The commission shall  
 4187 annually approve a classification plan and salary and benefits  
 4188 plan.

4189 (c) Employees in permanent positions must be offered  
 4190 benefits comparable to those offered under the Civil Career  
 4191 Service ~~System~~.

4192 (d) The commission may offer benefits greater than ~~in~~  
 4193 ~~excess of~~ those offered under the Civil Career Service ~~System~~  
 4194 only to employees who are appointed to positions designated as  
 4195 having managerial or policymaking duties or positions requiring  
 4196 membership in The Florida Bar.

4197 (e) By January 15th of each year, the commission shall  
 4198 submit to the Executive Office of the Governor, the President of  
 4199 the Senate, and the Speaker of the House of Representatives a  
 4200 listing of all positions receiving benefits greater than those

HB 1261

2012

4201 ~~benefits~~ offered under the Civil Career Service System. Any  
 4202 change in the positions that are offered greater benefits or any  
 4203 change in the level of benefits is subject to the notice and  
 4204 objection procedures of s. 216.177.

4205 Section 101. Subsection (4) of section 104.31, Florida  
 4206 Statutes, is amended to read:

4207 104.31 Political activities of state, county, and  
 4208 municipal officers and employees.—

4209 (4) Nothing contained in this section or in any county or  
 4210 municipal charter shall be deemed to prohibit any public  
 4211 employee from expressing his or her opinions on any candidate or  
 4212 issue or from participating in any political campaign during the  
 4213 employee's off-duty hours, so long as such activities are not in  
 4214 conflict with ~~the provisions of~~ subsection (1) or s. 110.1075  
 4215 ~~110.233~~.

4216 Section 102. Subsection (4) of section 106.24, Florida  
 4217 Statutes, is amended to read:

4218 106.24 Florida Elections Commission; membership; powers;  
 4219 duties.—

4220 (4) The commission shall appoint an executive director,  
 4221 who shall serve under the direction, supervision, and control of  
 4222 the commission. The executive director, with the consent of the  
 4223 commission, shall employ such staff as are necessary to  
 4224 adequately perform the functions of the commission, within  
 4225 budgetary limitations. All employees, except the executive  
 4226 director and attorneys, are subject to part II of chapter 110.  
 4227 The executive director shall serve at the pleasure of the  
 4228 commission and is ~~be~~ subject to part IV ~~III~~ of chapter 110,

HB 1261

2012

4229 | except that the commission shall have complete authority for  
 4230 | setting the executive director's salary. Attorneys employed by  
 4231 | the commission are ~~shall be~~ subject to part III ~~V~~ of chapter  
 4232 | 110.

4233 |       Section 103. Subsection (4) of section 112.044, Florida  
 4234 | Statutes, is amended to read:

4235 |           112.044 Public employers, employment agencies, labor  
 4236 | organizations; discrimination based on age prohibited;  
 4237 | exceptions; remedy.—

4238 |       (4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the  
 4239 | state ~~who is~~ within the Civil Career Service System established  
 4240 | by chapter 110 ~~and~~ who is aggrieved by a violation of this act  
 4241 | may appeal to the Public Employees Relations Commission under  
 4242 | the conditions and following the procedures prescribed in part  
 4243 | II of chapter 447. Any person other than an employee ~~who is~~  
 4244 | within the Civil Career Service System ~~established by chapter~~  
 4245 | ~~110~~, or any person employed by the Public Employees Relations  
 4246 | Commission, who is aggrieved by a violation of this act may  
 4247 | bring a civil action ~~in any court of competent jurisdiction~~ for  
 4248 | such legal or equitable relief as will effectuate the purposes  
 4249 | of this act.

4250 |       Section 104. Section 112.0805, Florida Statutes, is  
 4251 | amended to read:

4252 |           112.0805 Employer notice of insurance eligibility to  
 4253 | employees who retire.—An ~~Any~~ employer who provides insurance  
 4254 | coverage under s. 112.942 ~~110.123~~ or s. 112.0801 shall notify  
 4255 | those employees who retire of their eligibility to participate  
 4256 | in ~~either~~ the same group insurance plan or self-insurance plan



HB 1261

2012

4257 as provided in ss. 112.942 ~~110.123~~ and 112.0801, or the  
 4258 insurance coverage ~~as~~ provided by this law.

4259 Section 105. Paragraph (a) of subsection (9) of section  
 4260 112.313, Florida Statutes, is amended to read:

4261 112.313 Standards of conduct for public officers,  
 4262 employees of agencies, and local government attorneys.—

4263 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR  
 4264 LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

4265 (a)1. It is the intent of the Legislature to implement by  
 4266 statute the provisions of s. 8(e), Art. II of the State  
 4267 Constitution relating to legislators, statewide elected  
 4268 officers, appointed state officers, and designated public  
 4269 employees.

4270 2. As used in this paragraph:

4271 a. "Employee" means:

4272 (I) Any person employed in the executive or legislative  
 4273 branch of government holding a position in the Senior Management  
 4274 Service as defined in s. 110.402 or any person holding a  
 4275 position in the Selected Exempt Service as defined in s.  
 4276 110.3021 ~~110.602~~ or any person having authority over policy or  
 4277 procurement employed by the Department of the Lottery.

4278 (II) The Auditor General, the director of the Office of  
 4279 Program Policy Analysis and Government Accountability, the  
 4280 Sergeant at Arms and Secretary of the Senate, and the Sergeant  
 4281 at Arms and Clerk of the House of Representatives.

4282 (III) The executive director and deputy executive director  
 4283 of the Commission on Ethics.

4284 (IV) An executive director, staff director, or deputy

4285 staff director of each joint committee, standing committee, or  
 4286 select committee of the Legislature; an executive director,  
 4287 staff director, executive assistant, analyst, or attorney of the  
 4288 Office of the President of the Senate, the Office of the Speaker  
 4289 of the House of Representatives, the Senate Majority Party  
 4290 Office, Senate Minority Party Office, House Majority Party  
 4291 Office, or House Minority Party Office; or any person, hired on  
 4292 a contractual basis, having the power normally conferred upon  
 4293 such persons, by whatever title.

4294 (V) The Chancellor and Vice Chancellors of the State  
 4295 University System; the general counsel to the Board of Governors  
 4296 of the State University System; and the president, provost, vice  
 4297 presidents, and deans of each state university.

4298 (VI) Any person, including an other-personal-services  
 4299 employee, having the power normally conferred upon the positions  
 4300 referenced in this sub-subparagraph.

4301 b. "Appointed state officer" means any member of an  
 4302 appointive board, commission, committee, council, or authority  
 4303 of the executive or legislative branch of state government whose  
 4304 powers, jurisdiction, and authority are not solely advisory and  
 4305 include the final determination or adjudication of any personal  
 4306 or property rights, duties, or obligations, other than those  
 4307 relative to its internal operations.

4308 c. "State agency" means an entity of the legislative,  
 4309 executive, or judicial branch of state government over which the  
 4310 Legislature exercises plenary budgetary and statutory control.

4311 3. A ~~No~~ member of the Legislature, appointed state  
 4312 officer, or statewide elected officer may not ~~shall~~ personally

HB 1261

2012

4313 represent another person or entity for compensation before the  
 4314 government body or agency of which the individual was an officer  
 4315 or member for a ~~period of~~ 2 years following vacation of office.  
 4316 A ~~No~~ member of the Legislature may not ~~shall~~ personally  
 4317 represent another person or entity for compensation during his  
 4318 or her term of office before any state agency other than  
 4319 judicial tribunals or in settlement negotiations after the  
 4320 filing of a lawsuit.

4321 4. An agency employee, including an agency employee who  
 4322 was employed on July 1, 2001, in a civil ~~Career~~ service ~~System~~  
 4323 position that was transferred to the Selected Exempt Service  
 4324 ~~System~~ under chapter 2001-43, Laws of Florida, may not  
 4325 personally represent another person or entity for compensation  
 4326 before the agency with which he or she was employed for a ~~period~~  
 4327 ~~of~~ 2 years following vacation of position, unless employed by  
 4328 another agency of state government.

4329 5. Any person violating this paragraph is ~~shall be~~ subject  
 4330 to the penalties provided in s. 112.317 and a civil penalty ~~of~~  
 4331 ~~an amount~~ equal to the compensation that ~~which~~ the person  
 4332 receives for the prohibited conduct.

4333 6. This paragraph is not applicable to:

4334 a. A person employed by the Legislature or other agency  
 4335 before ~~prior to~~ July 1, 1989;

4336 b. A person who was employed by the Legislature or other  
 4337 agency on July 1, 1989, regardless of whether ~~or not~~ the person  
 4338 was a defined employee on July 1, 1989;

4339 c. A person who was a defined employee of the State  
 4340 University System or the Public Service Commission who held such

4341 employment on December 31, 1994;

4342 d. A person who has reached normal retirement age as  
 4343 defined in s. 121.021(29), and who has retired under ~~the~~  
 4344 ~~provisions of~~ chapter 121 by July 1, 1991; or

4345 e. Any appointed state officer whose term of office began  
 4346 before January 1, 1995, unless reappointed to that office on or  
 4347 after January 1, 1995.

4348 Section 106. Paragraph (b) of subsection (1) of section  
 4349 112.3145, Florida Statutes, is amended to read:

4350 112.3145 Disclosure of financial interests and clients  
 4351 represented before agencies.—

4352 (1) For purposes of this section, unless the context  
 4353 otherwise requires, the term:

4354 (b) "Specified state employee" means:

4355 1. Public counsel created by chapter 350, an assistant  
 4356 state attorney, an assistant public defender, a full-time state  
 4357 employee who serves as counsel or assistant counsel to any state  
 4358 agency, the Deputy Chief Judge of Compensation Claims, a judge  
 4359 of compensation claims, an administrative law judge, or a  
 4360 hearing officer.

4361 2. Any person employed in the office of the Governor or in  
 4362 the office of any member of the Cabinet if that person is exempt  
 4363 from the Civil Career Service System, except persons employed in  
 4364 clerical, secretarial, or similar positions.

4365 3. The State Surgeon General or each appointed secretary,  
 4366 assistant secretary, deputy secretary, executive director,  
 4367 assistant executive director, or deputy executive director of  
 4368 each state department, commission, board, or council; unless

HB 1261

2012

4369 otherwise provided, the division director, assistant division  
 4370 director, deputy director, bureau chief, and assistant bureau  
 4371 chief of any state department or division; or any person having  
 4372 the power normally conferred upon such persons, by whatever  
 4373 title.

4374 4. The superintendent or institute director of a state  
 4375 mental health institute established for training and research in  
 4376 the mental health field or the warden or director of any major  
 4377 state institution or facility established for corrections,  
 4378 training, treatment, or rehabilitation.

4379 5. Business managers, purchasing agents having the power  
 4380 to make any purchase exceeding the threshold amount provided for  
 4381 in s. 287.017 for CATEGORY ONE, finance and accounting  
 4382 directors, personnel officers, or grants coordinators for any  
 4383 state agency.

4384 6. Any person, other than a legislative assistant exempted  
 4385 by the presiding officer of the house that employs ~~by which~~ the  
 4386 legislative assistant ~~is employed~~, who is employed in the  
 4387 legislative branch of government, except persons employed in  
 4388 maintenance, clerical, secretarial, or similar positions.

4389 7. Each employee of the Commission on Ethics.

4390 Section 107. Paragraph (a) of subsection (2) of section  
 4391 112.363, Florida Statutes, is amended to read:

4392 112.363 Retiree health insurance subsidy.—

4393 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

4394 (a) A person who is retired under a state-administered  
 4395 retirement system, or a beneficiary who is a spouse or financial  
 4396 dependent entitled to receive benefits under a state-

HB 1261

2012

4397 administered retirement system, is eligible for health insurance  
 4398 subsidy payments ~~provided~~ under this section, ~~+~~ except that  
 4399 pension recipients under ss. 121.40, 238.07(18)(a), and 250.22,  
 4400 recipients of health insurance coverage under s. 112.945  
 4401 ~~110.1232~~, or recipients of any other special pension or relief  
 4402 act are ~~shall~~ not be eligible for such payments.

4403 Section 108. Subsections (11) and (38) of section 121.021,  
 4404 Florida Statutes, are amended to read:

4405 121.021 Definitions.—The following words and phrases as  
 4406 used in this chapter have the respective meanings set forth  
 4407 unless a different meaning is plainly required by the context:

4408 (11) "Officer or employee" means any person receiving  
 4409 salary payments for work performed in a regularly established  
 4410 position and, if employed by a municipality, a metropolitan  
 4411 planning organization, or a special district, employed in a  
 4412 covered group. The term does not apply to state employees  
 4413 covered by a leasing agreement under s. 112.919 ~~110.191~~, other  
 4414 public employees covered by a leasing agreement, or a coemployer  
 4415 relationship.

4416 (38) "Continuous service" means creditable service as a  
 4417 member, beginning with the first day of employment with an  
 4418 employer covered under a state-administered retirement system  
 4419 consolidated herein and continuing for as long as the member  
 4420 remains in an employer-employee relationship with the an  
 4421 employer ~~covered under this chapter~~. An absence of 1 calendar  
 4422 month or more from an employer's payroll is ~~shall be~~ considered  
 4423 a break in continuous service, except for periods of absence  
 4424 during which an employer-employee relationship continues to

HB 1261

2012

4425 exist and such period of absence is creditable under this  
 4426 chapter or under one of the existing systems consolidated in  
 4427 this chapter herein. However, a law enforcement officer as  
 4428 defined in s. 121.0515(3) (a) who was a member of a state-  
 4429 administered retirement system under chapter 122 or chapter 321  
 4430 and who resigned and was subsequently reemployed in a law  
 4431 enforcement position within 12 calendar months after ~~of~~ such  
 4432 resignation by an employer under a ~~such~~ state-administered  
 4433 retirement system is ~~shall be~~ deemed not to have ~~not~~ experienced  
 4434 a break in service. Further, with respect to a state-employed  
 4435 law enforcement officer who meets the criteria specified in s.  
 4436 121.0515(3) (a), if the absence from the employer's payroll is  
 4437 the result of a "layoff" as defined in s. 110.1054 ~~110.107~~ or a  
 4438 resignation to run for an elected office that meets the criteria  
 4439 specified in s. 121.0515(3) (a), no break in continuous service  
 4440 is ~~shall be~~ deemed to have occurred if the member is reemployed  
 4441 as a state law enforcement officer or is elected to an office  
 4442 that ~~which~~ meets the criteria specified in s. 121.0515(3) (a)  
 4443 within 12 calendar months after the date of the layoff or  
 4444 resignation, notwithstanding the fact that such period of layoff  
 4445 or resignation is not creditable service under this chapter. A  
 4446 withdrawal of contributions constitutes ~~will constitute~~ a break  
 4447 in service. Continuous service also includes past service  
 4448 purchased under this chapter if, ~~provided~~ such service is  
 4449 continuous as provided in ~~within~~ this subsection ~~definition~~ and  
 4450 the rules established by the administrator. The administrator  
 4451 may establish administrative rules and procedures for applying  
 4452 this subsection ~~definition~~ to creditable service authorized

HB 1261

2012

4453 | under this chapter. Any correctional officer, as defined in s.  
 4454 | 943.10, whose participation in the state-administered retirement  
 4455 | system is terminated due to the transfer of a county detention  
 4456 | facility through a contractual agreement with a private entity  
 4457 | pursuant to s. 951.062 is, ~~shall be~~ deemed an employee with  
 4458 | continuous service in the Special Risk Class if, ~~provided~~ return  
 4459 | to employment with the former employer takes place within 3  
 4460 | years due to contract termination or the officer is employed by  
 4461 | a covered employer in a special risk position within 1 year  
 4462 | after his or her initial termination of employment by such  
 4463 | transfer of its detention facilities to the private entity.

4464 | Section 109. Paragraph (f) of subsection (2) of section  
 4465 | 121.051, Florida Statutes, is amended to read:

4466 | 121.051 Participation in the system.—

4467 | (2) OPTIONAL PARTICIPATION.—

4468 | (f)1. If an employer that participates in the Florida  
 4469 | Retirement System undertakes the transfer, merger, or  
 4470 | consolidation of governmental services or assumes the functions  
 4471 | and activities of an employing governmental entity that was not  
 4472 | an employer under the system, the employer must notify the  
 4473 | department at least 60 days before such action and provide  
 4474 | documentation as required by the department. Such ~~The~~ transfer,  
 4475 | merger, ~~or~~ consolidation, ~~of governmental services~~ or assumption  
 4476 | ~~of governmental functions and activities~~ must occur between  
 4477 | public employers. The current or former employer may pay the  
 4478 | employees' past service cost, unless prohibited under this  
 4479 | chapter. This subparagraph does not apply to the transfer,  
 4480 | merger, or consolidation of governmental services or assumption



HB 1261

2012

4481 of functions and activities of a public entity under a leasing  
4482 agreement having a coemployer relationship. Employers and  
4483 employees of a public governmental employer whose service is  
4484 covered by a leasing agreement under s. 112.919 ~~110.191~~, any  
4485 other leasing agreement, or a coemployer relationship may ~~are~~  
4486 not ~~eligible to~~ participate in the Florida Retirement System.

4487 2. If the agency to which a member's employing unit is  
4488 transferred, merged, or consolidated does not participate in the  
4489 Florida Retirement System, a member may elect in writing to  
4490 remain in the ~~Florida Retirement~~ system or to transfer to the  
4491 local retirement system operated by the agency. If the agency  
4492 does not participate in a local retirement system, the member  
4493 shall continue membership in the Florida Retirement System. In  
4494 either case, membership continues for as long as the member is  
4495 employed by the agency to which his or her unit was transferred,  
4496 merged, or consolidated.

4497 Section 110. Section 121.055, Florida Statutes, is amended  
4498 to read:

4499 121.055 Senior Management Service Class.—There is hereby  
4500 established a separate class of membership within the Florida  
4501 Retirement System to be known as the "Senior Management Service  
4502 Class.," ~~which shall become effective February 1, 1987.~~

4503 (1) (a) Participation in the Senior Management Service  
4504 Class is ~~shall be~~ limited to and compulsory for any member of  
4505 the Florida Retirement System who holds a position in the Senior  
4506 Management Service ~~of the State of Florida~~, established under ~~by~~  
4507 part IV ~~III~~ of chapter 110, unless such member elects, within  
4508 the time specified in this section ~~herein~~, to participate in the

4509 Senior Management Service Optional Annuity Program as  
 4510 established in subsection (6).

4511 (b)1. Except as provided in subparagraph 2., effective  
 4512 January 1, 1990, participation in the Senior Management Service  
 4513 Class is compulsory for the president of each community college,  
 4514 the manager of each participating municipality or county, and  
 4515 all appointed district school superintendents. Effective January  
 4516 1, 1994, additional positions may be designated for inclusion in  
 4517 the Senior Management Service Class if:

4518 a. Positions to be included in the class are designated by  
 4519 the local agency employer. Notice of intent to designate  
 4520 positions for inclusion in the class must be published once a  
 4521 week for 2 consecutive weeks in a newspaper of general  
 4522 circulation published in the county or counties affected, as  
 4523 provided in chapter 50.

4524 b. Up to 10 nonelective full-time positions may be  
 4525 designated for each local agency employer reporting to the  
 4526 department; for local agencies with 100 or more regularly  
 4527 established positions, additional nonelective full-time  
 4528 positions may be designated, not to exceed 1 percent of the  
 4529 regularly established positions within the agency.

4530 c. Each position added to the class must be a managerial  
 4531 or policymaking position filled by an employee who is not  
 4532 subject to continuing contract and serves at the pleasure of the  
 4533 local agency employer without civil service protection, and who:

4534 (I) Heads an organizational unit; or

4535 (II) Has responsibility to effect or recommend personnel,  
 4536 budget, expenditure, or policy decisions in his or her areas of

HB 1261

2012

4537 responsibility.

4538       2. In lieu of participation in the Senior Management  
4539 Service Class, members of the Senior Management Service Class,  
4540 pursuant to subparagraph 1., may withdraw from the Florida  
4541 Retirement System altogether. The decision to withdraw from the  
4542 system is irrevocable as long as the employee holds the  
4543 position. Any service creditable under the Senior Management  
4544 Service Class shall be retained after the member withdraws from  
4545 the system; however, additional service credit in the Senior  
4546 Management Service Class may not be earned after such  
4547 withdrawal. Such members are not eligible to participate in the  
4548 Senior Management Service Optional Annuity Program.

4549       3. Effective January 1, 2006, through June 30, 2006, an  
4550 employee who has withdrawn from the Florida Retirement System  
4551 under subparagraph 2. has one opportunity to elect to  
4552 participate in the pension plan or the investment plan.

4553       a. If the employee elects to participate in the investment  
4554 plan, membership shall be prospective, and the applicable  
4555 provisions of s. 121.4501(4) govern the election.

4556       b. If the employee elects to participate in the pension  
4557 plan, the employee shall, upon payment to the system trust fund  
4558 of the amount calculated under sub-sub-subparagraph (I), receive  
4559 service credit for prior service based upon the time during  
4560 which the employee had withdrawn from the system.

4561       (I) The cost for such credit shall be an amount  
4562 representing the actuarial accrued liability for the affected  
4563 period of service. The cost shall be calculated using the  
4564 discount rate and other relevant actuarial assumptions that were

HB 1261

2012

4565 used to value the pension plan liabilities in the most recent  
4566 actuarial valuation. The calculation must include any service  
4567 already maintained under the pension plan in addition to the  
4568 period of withdrawal. The actuarial accrued liability  
4569 attributable to any service already maintained under the pension  
4570 plan shall be applied as a credit to the total cost resulting  
4571 from the calculation. The division must ensure that the transfer  
4572 sum is prepared using a formula and methodology certified by an  
4573 actuary.

4574 (II) The employee must transfer a sum representing the net  
4575 cost owed for the actuarial accrued liability in sub-sub-  
4576 subparagraph (I) immediately following the time of such  
4577 movement, determined assuming that attained service equals the  
4578 sum of service in the pension plan and the period of withdrawal.

4579 (c)1. Effective January 1, 1990, participation in the  
4580 Senior Management Service Class shall be compulsory for up to 75  
4581 nonelective positions at the level of committee staff director  
4582 or higher or equivalent managerial or policymaking positions  
4583 within the House of Representatives, as selected by the Speaker  
4584 of the House of Representatives, up to 50 nonelective positions  
4585 at the level of committee staff director or higher or equivalent  
4586 managerial or policymaking positions within the Senate, as  
4587 selected by the President of the Senate, all staff directors of  
4588 joint committees and service offices of the Legislature, the  
4589 Auditor General and up to 9 managerial or policymaking positions  
4590 within his or her office as selected by the Auditor General, and  
4591 the executive director of the Commission on Ethics.

4592 2. Participation in this class shall be compulsory, except

HB 1261

2012

4593 as provided in subparagraph 3., for any legislative employee who  
4594 holds a position designated for coverage in the Senior  
4595 Management Service Class, and such participation shall continue  
4596 until the employee terminates employment in a covered position.

4597 3. In lieu of participation in the Senior Management  
4598 Service Class, at the discretion of the President of the Senate  
4599 and the Speaker of the House of Representatives, such members  
4600 may participate in the Senior Management Service Optional  
4601 Annuity Program as established in subsection (6).

4602 (d) Effective January 1, 1991, participation in the Senior  
4603 Management Service Class shall be compulsory for any member of  
4604 the Florida Retirement System in a position that has been  
4605 designated eligible for inclusion in the Executive Service of  
4606 the State University System or who holds a position as president  
4607 of a state university, unless such member elects, pursuant to s.  
4608 121.35, to participate in the optional retirement program.

4609 (e) Effective January 1, 1991, participation in the Senior  
4610 Management Service Class shall be compulsory for the number of  
4611 senior managers who have policymaking authority with the State  
4612 Board of Administration, as determined by the Governor, Chief  
4613 Financial Officer, and Attorney General acting as the State  
4614 Board of Administration, unless such member elects to  
4615 participate in the Senior Management Service Optional Annuity  
4616 Program as established in subsection (6) in lieu of  
4617 participation in the Senior Management Service Class. Such  
4618 election shall be made in writing and filed with the division  
4619 and the personnel officer of the State Board of Administration  
4620 within 90 days after becoming eligible for membership in the

HB 1261

2012

4621 Senior Management Service Class.

4622 (f) Effective July 1, 1997:

4623 1. Except as provided in subparagraph 3., an elected state  
4624 officer eligible for membership in the Elected Officers' Class  
4625 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
4626 Senior Management Service Class under s. 121.052(3)(c) may,  
4627 within 6 months after assuming office or within 6 months after  
4628 this act becomes a law for serving elected state officers, elect  
4629 to participate in the Senior Management Service Optional Annuity  
4630 Program, as provided in subsection (6), in lieu of membership in  
4631 the Senior Management Service Class.

4632 2. Except as provided in subparagraph 3., an elected  
4633 officer of a local agency employer eligible for membership in  
4634 the Elected Officers' Class under s. 121.052(2)(d) who elects  
4635 membership in the Senior Management Service Class under s.  
4636 121.052(3)(c) may, within 6 months after assuming office, or  
4637 within 6 months after this act becomes a law for serving elected  
4638 officers of a local agency employer, elect to withdraw from the  
4639 Florida Retirement System, as provided in subparagraph (b)2., in  
4640 lieu of membership in the Senior Management Service Class.

4641 3. A retiree of a state-administered retirement system who  
4642 is initially reemployed on or after July 1, 2010, as an elected  
4643 official eligible for the Elected Officers' Class may not renew  
4644 membership in the Senior Management Service Class or in the  
4645 Senior Management Service Optional Annuity Program as provided  
4646 in subsection (6), and may not withdraw from the Florida  
4647 Retirement System as a renewed member as provided in  
4648 subparagraph (b)2., as applicable, in lieu of membership in the

HB 1261

2012

4649 Senior Management Service Class.

4650 (g) Effective July 1, 1996, participation in the Senior  
 4651 Management Service Class shall be compulsory for any member of  
 4652 the Florida Retirement System employed with the Department of  
 4653 Military Affairs in the positions of the Adjutant General,  
 4654 Assistant Adjutant General-Army, Assistant Adjutant General-Air,  
 4655 State Quartermaster, Director of Military Personnel, Director of  
 4656 Administration, and additional directors as designated by the  
 4657 agency head, not to exceed a total of 10 positions. In lieu of  
 4658 participation in the Senior Management Service Class, such  
 4659 members may participate in the Senior Management Service  
 4660 Optional Annuity Program as established in subsection (6).

4661 (h)1. Except as provided in subparagraph 3., effective  
 4662 January 1, 1994, participation in the Senior Management Service  
 4663 Class shall be compulsory for the State Courts Administrator and  
 4664 the Deputy State Courts Administrators, the Clerk of the Supreme  
 4665 Court, the Marshal of the Supreme Court, the Executive Director  
 4666 of the Justice Administrative Commission, the capital collateral  
 4667 regional counsel, the clerks of the district courts of appeals,  
 4668 the marshals of the district courts of appeals, and the trial  
 4669 court administrator and the Chief Deputy Court Administrator in  
 4670 each judicial circuit. Effective January 1, 1994, additional  
 4671 positions in the offices of the state attorney and public  
 4672 defender in each judicial circuit may be designated for  
 4673 inclusion in the Senior Management Service Class of the Florida  
 4674 Retirement System, provided that:

4675 a. Positions to be included in the class shall be  
 4676 designated by the state attorney or public defender, as

HB 1261

2012

4677 appropriate. Notice of intent to designate positions for  
4678 inclusion in the class shall be published once a week for 2  
4679 consecutive weeks in a newspaper of general circulation  
4680 published in the county or counties affected, as provided in  
4681 chapter 50.

4682 b. One nonelective full-time position may be designated  
4683 for each state attorney and public defender reporting to the  
4684 Department of Management Services; for agencies with 200 or more  
4685 regularly established positions under the state attorney or  
4686 public defender, additional nonelective full-time positions may  
4687 be designated, not to exceed 0.5 percent of the regularly  
4688 established positions within the agency.

4689 c. Each position added to the class must be a managerial  
4690 or policymaking position filled by an employee who serves at the  
4691 pleasure of the state attorney or public defender without civil  
4692 service protection, and who:

4693 (I) Heads an organizational unit; or

4694 (II) Has responsibility to effect or recommend personnel,  
4695 budget, expenditure, or policy decisions in his or her areas of  
4696 responsibility.

4697 2. Participation in this class shall be compulsory, except  
4698 as provided in subparagraph 3., for any judicial employee who  
4699 holds a position designated for coverage in the Senior  
4700 Management Service Class, and such participation shall continue  
4701 until the employee terminates employment in a covered position.  
4702 Effective January 1, 2001, participation in this class is  
4703 compulsory for assistant state attorneys, assistant statewide  
4704 prosecutors, assistant public defenders, and assistant capital



HB 1261

2012

4705 collateral regional counsel. Effective January 1, 2002,  
 4706 participation in this class is compulsory for assistant  
 4707 attorneys general.

4708 3. In lieu of participation in the Senior Management  
 4709 Service Class, such members, excluding assistant state  
 4710 attorneys, assistant public defenders, assistant statewide  
 4711 prosecutors, assistant attorneys general, and assistant capital  
 4712 collateral regional counsel, may participate in the Senior  
 4713 Management Service Optional Annuity Program as established in  
 4714 subsection (6).

4715 (i)1. Except as provided in subparagraph 2., effective  
 4716 July 1, 1999, participation in the Senior Management Service  
 4717 Class is compulsory for any member of the Florida Retirement  
 4718 System who is employed as the Deputy Chief Judge of Compensation  
 4719 Claims or as a judge of compensation claims with the Office of  
 4720 the Judges of Compensation Claims within the Division of  
 4721 Administrative Hearings.

4722 2. In lieu of participating in the Senior Management  
 4723 Service Class, the Deputy Chief Judge of Compensation Claims or  
 4724 a judge of compensation claims may participate in the Senior  
 4725 Management Service Optional Annuity Program established under  
 4726 subsection (6).

4727 (j) Except as may otherwise be provided, a member of the  
 4728 Senior Management Service Class may purchase additional  
 4729 retirement credit in such class for creditable service within  
 4730 the purview of the Senior Management Service Class retroactive  
 4731 to February 1, 1987, and may upgrade retirement credit for such  
 4732 service, to the extent of 2 percent of the member's average

HB 1261

2012

4733 monthly compensation as specified in paragraph (4) (d) for such  
4734 service. Contributions for upgrading the additional Senior  
4735 Management Service credit must be equal to the difference in the  
4736 employer and, if applicable, employee contributions paid and the  
4737 Senior Management Service Class contribution rate as a  
4738 percentage of gross salary in effect for the period being  
4739 claimed, plus interest thereon at the rate of 6.5 percent a  
4740 year, compounded annually until the date of payment. This  
4741 service credit may be purchased by the employer on behalf of the  
4742 member.

4743 (k) Any state attorney or public defender in the Elected  
4744 Officers' Class who has creditable service as an assistant state  
4745 attorney or assistant public defender may upgrade retirement  
4746 credit for such service in accordance with the provisions of  
4747 paragraph (j).

4748 (1) For each metropolitan planning organization that has  
4749 opted to become part of the Florida Retirement System,  
4750 participation in the Senior Management Service Class shall be  
4751 compulsory for the executive director or staff director of that  
4752 metropolitan planning organization.

4753 (2) (a) Participation in this class shall cease when the  
4754 member terminates employment in an eligible position. Once a  
4755 position is designated as eligible for inclusion in the class,  
4756 that position shall not be removed from the class unless the  
4757 duties and responsibilities of the position change substantially  
4758 and therefore no longer meet the requirements provided in this  
4759 section for participation in the class, except as provided in  
4760 paragraph (b).

HB 1261

2012

4761 (b) Effective July 1, 1997, each local agency employer may  
 4762 between July 1, 1997, and December 31, 1997, reassess its  
 4763 designation of positions for inclusion in the Senior Management  
 4764 Service Class as provided in paragraph (1)(b), and may request  
 4765 removal from the class of any such positions that it deems  
 4766 appropriate. Such removal of any previously designated positions  
 4767 shall be effective on the first day of the month following  
 4768 written notification of removal to the division prior to January  
 4769 1, 1998.

4770 (3)(a) The following table states the required retirement  
 4771 contribution rates for members of the Senior Management Service  
 4772 Class and their employers in terms of a percentage of the  
 4773 member's gross compensation. A change in the contribution rate  
 4774 is effective with the first salary paid on or after the  
 4775 beginning date of the change. Contributions shall be made for  
 4776 each pay period and are in addition to the contributions  
 4777 required for social security and the Retiree Health Insurance  
 4778 Subsidy Trust Fund.

4779 Dates of Contribution

Rate Changes	Members	Employers
July 1, 2001, through June 30, 2002	0%	11.73%

4782  
 4783 2. Effective July 1, 2002, the required retirement

4784 contribution rate shall be as specified in s. 121.71.

4785 (b) The employer paying the salary of a member of the  
 4786 Senior Management Service Class shall contribute an amount as  
 4787 specified in this section or s. 121.71, as appropriate, which  
 4788 shall constitute the entire employer retirement contribution  
 4789 with respect to such member. The employer shall also withhold  
 4790 one-half of the entire contribution of the member required for  
 4791 social security coverage. Effective July 1, 2011, each member  
 4792 shall pay employee contributions as specified in s. 121.71.

4793 (c) Upon termination of employment from all participating  
 4794 employers for 3 calendar months for any reason other than  
 4795 retirement pursuant to s. 121.021(39)(c), a member may receive a  
 4796 refund of all contributions he or she has made to the pension  
 4797 plan, subject to the restrictions otherwise provided in this  
 4798 chapter. Partial refunds are not permitted. The refund shall not  
 4799 include any interest earnings on the contributions for a member  
 4800 of the pension plan. Employer contributions made on behalf of  
 4801 the member are not refundable. A member may not receive a refund  
 4802 of employee contributions if a pending or an approved qualified  
 4803 domestic relations order is filed against the member's  
 4804 retirement account. By obtaining a refund of contributions, a  
 4805 member waives all rights under the Florida Retirement System and  
 4806 the health insurance subsidy provided under s. 112.363 to the  
 4807 service credit represented by the refunded contributions, except  
 4808 the right to purchase his or her prior service credit in  
 4809 accordance with s. 121.081(2).

4810 (d) The following table states the required employer  
 4811 contribution on behalf of each member of the Senior Management

HB 1261

2012

4812 Service Class in terms of a percentage of the member's gross  
 4813 compensation. Such contribution constitutes the entire health  
 4814 insurance subsidy contribution with respect to each such member.  
 4815 A change in the contribution rate is effective with the first  
 4816 salary paid on or after the beginning date of the change. The  
 4817 retiree health insurance subsidy contribution rate is as  
 4818 follows:

4819	Dates of Contribution	Contribution
4820	Rate Changes	Rate
4821	October 1, 1987, through December 31, 1988	0.24%
4822	January 1, 1989, through December 31, 1993	0.48%
4823	January 1, 1994, through December 31, 1994	0.56%
4824	January 1, 1995, through June 30, 1998	0.66%
4825	July 1, 1998, through June 30, 2001	0.94%
4826	Effective July 1, 2001	1.11%

4827  
 4828 Such contributions and accompanying payroll data are due and  
 4829 payable no later than the 5th working day of the month  
 4830 immediately following the month during which the payroll period

HB 1261

2012

4831 ended and shall be deposited by the administrator in the Retiree  
4832 Health Insurance Subsidy Trust Fund.

4833 (4) (a) The definitions set forth in s. 121.021 and all  
4834 other provisions of this chapter shall apply to the Senior  
4835 Management Service Class, except the definitions and provisions  
4836 in conflict with, or superseded or modified by, the provisions  
4837 of this section.

4838 (b) Service in an eligible position before February 1,  
4839 1987, or after January 31, 1987, shall satisfy the requirement  
4840 of attaining the normal retirement date as defined in s.  
4841 121.021(29) for a Senior Management Service Class member, if the  
4842 employee is a member of the Senior Management Service Class  
4843 after January 31, 1987. A member of this class who fails to  
4844 complete the years of creditable service required for vesting in  
4845 an eligible position must satisfy the requirements for the  
4846 normal retirement date for a regular member as provided in s.  
4847 121.021(29) and vesting as provided in s. 121.021(45).

4848 (c) The average final compensation of a member of this  
4849 class shall be as defined in s. 121.021(24).

4850 (d) A member of the Senior Management Service Class shall  
4851 receive retirement credit at the rate of 2 percent of average  
4852 final compensation for each year of service in such class after  
4853 January 31, 1987.

4854 (5) A member of the Senior Management Service Class shall  
4855 retain all rights and creditable service accumulated in the  
4856 Florida Retirement System prior to membership in the Senior  
4857 Management Service Class.

4858 (6) (a) Senior Management Service Optional Annuity

HB 1261

2012

4859 Program.—The Department of Management Services shall establish a  
4860 Senior Management Service Optional Annuity Program under which  
4861 contracts providing retirement, death, and disability benefits  
4862 may be purchased for those employees who elect to participate in  
4863 the optional annuity program. The benefits to be provided for or  
4864 on behalf of participants in such optional annuity program shall  
4865 be provided through individual contracts or individual  
4866 certificates issued for group annuity contracts, which may be  
4867 fixed, variable, or a combination thereof, in accordance with s.  
4868 401(a) of the Internal Revenue Code. Any such individual  
4869 contract or certificate shall state the annuity plan on its face  
4870 page, and shall include, but not be limited to, a statement of  
4871 ownership, the contract benefits, annuity income options,  
4872 limitations, expense charges, and surrender charges, if any. The  
4873 employing agency shall contribute, as provided in this section,  
4874 toward the purchase of such optional benefits which shall be  
4875 fully and immediately vested in the participants.

4876 (b) Retirement service credit.—An eligible employee who is  
4877 a member of the Florida Retirement System or an existing  
4878 retirement system at the time of his or her election to  
4879 participate in the Senior Management Service Optional Annuity  
4880 Program shall retain all retirement service credit earned under  
4881 the retirement system from which he or she transferred; however,  
4882 no additional service credit in the Florida Retirement System or  
4883 existing retirement system shall be earned while the employee  
4884 participates in the optional annuity program, nor shall the  
4885 employee be eligible for disability retirement under the Florida  
4886 Retirement System or existing retirement system.

HB 1261

2012

4887 (c) Participation.—

4888 1. An eligible employee who is employed on or before  
4889 February 1, 1987, may elect to participate in the optional  
4890 annuity program in lieu of participating in the Senior  
4891 Management Service Class. Such election must be made in writing  
4892 and filed with the department and the personnel officer of the  
4893 employer on or before May 1, 1987. An eligible employee who is  
4894 employed on or before February 1, 1987, and who fails to make an  
4895 election to participate in the optional annuity program by May  
4896 1, 1987, shall be deemed to have elected membership in the  
4897 Senior Management Service Class.

4898 2. Except as provided in subparagraph 6., an employee who  
4899 becomes eligible to participate in the optional annuity program  
4900 by reason of initial employment commencing after February 1,  
4901 1987, may, within 90 days after the date of commencing  
4902 employment, elect to participate in the optional annuity  
4903 program. Such election must be made in writing and filed with  
4904 the personnel officer of the employer. An eligible employee who  
4905 does not within 90 days after commencing employment elect to  
4906 participate in the optional annuity program shall be deemed to  
4907 have elected membership in the Senior Management Service Class.

4908 3. A person who is appointed to a position in the Senior  
4909 Management Service Class and who is a member of an existing  
4910 retirement system or the Special Risk or Special Risk  
4911 Administrative Support Classes of the Florida Retirement System  
4912 may elect to remain in such system or class in lieu of  
4913 participating in the Senior Management Service Class or optional  
4914 annuity program. Such election must be made in writing and filed



HB 1261

2012

4915 with the department and the personnel officer of the employer  
4916 within 90 days after such appointment. An eligible employee who  
4917 fails to make an election to participate in the existing system,  
4918 the Special Risk Class of the Florida Retirement System, the  
4919 Special Risk Administrative Support Class of the Florida  
4920 Retirement System, or the optional annuity program shall be  
4921 deemed to have elected membership in the Senior Management  
4922 Service Class.

4923 4. Except as provided in subparagraph 5., an employee's  
4924 election to participate in the optional annuity program is  
4925 irrevocable if the employee continues to be employed in an  
4926 eligible position and continues to meet the eligibility  
4927 requirements set forth in this paragraph.

4928 5. Effective from July 1, 2002, through September 30,  
4929 2002, an active employee in a regularly established position who  
4930 has elected to participate in the Senior Management Service  
4931 Optional Annuity Program has one opportunity to choose to move  
4932 from the Senior Management Service Optional Annuity Program to  
4933 the Florida Retirement System Pension Plan.

4934 a. The election must be made in writing and must be filed  
4935 with the department and the personnel officer of the employer  
4936 before October 1, 2002, or, in the case of an active employee  
4937 who is on a leave of absence on July 1, 2002, within 90 days  
4938 after the conclusion of the leave of absence. This election is  
4939 irrevocable.

4940 b. The employee shall receive service credit under the  
4941 pension plan equal to his or her years of service under the  
4942 Senior Management Service Optional Annuity Program. The cost for

4943 | such credit is the amount representing the present value of that  
 4944 | employee's accumulated benefit obligation for the affected  
 4945 | period of service.

4946 |       c. The employee must transfer the total accumulated  
 4947 | employer contributions and earnings on deposit in his or her  
 4948 | Senior Management Service Optional Annuity Program account. If  
 4949 | the transferred amount is not sufficient to pay the amount due,  
 4950 | the employee must pay a sum representing the remainder of the  
 4951 | amount due. The employee may not retain any employer  
 4952 | contributions or earnings from the Senior Management Service  
 4953 | Optional Annuity Program account.

4954 |       6. A retiree of a state-administered retirement system who  
 4955 | is initially reemployed on or after July 1, 2010, may not renew  
 4956 | membership in the Senior Management Service Optional Annuity  
 4957 | Program.

4958 |       (d) Contributions.—

4959 |       1.a. Through June 30, 2001, each employer shall contribute  
 4960 | on behalf of each member of the Senior Management Service  
 4961 | Optional Annuity Program an amount equal to the normal cost  
 4962 | portion of the employer retirement contribution which would be  
 4963 | required if the member were a Senior Management Service Class  
 4964 | member of the Florida Retirement System Pension Plan, plus the  
 4965 | portion of the contribution rate required in s. 112.363(8) that  
 4966 | would otherwise be assigned to the Retiree Health Insurance  
 4967 | Subsidy Trust Fund.

4968 |       b. Effective July 1, 2001, through June 30, 2011, each  
 4969 | employer shall contribute on behalf of each member of the  
 4970 | optional program an amount equal to 12.49 percent of the

4971 employee's gross monthly compensation.

4972 c. Effective July 1, 2011, each member of the optional  
 4973 annuity program shall contribute an amount equal to the employee  
 4974 contribution required under s. 121.71(3). The employer shall  
 4975 contribute on behalf of such employee an amount equal to the  
 4976 difference between 12.49 percent of the employee's gross monthly  
 4977 compensation and the amount equal to the employee's required  
 4978 contribution based on the employee's gross monthly compensation.

4979 d. The department shall deduct an amount approved by the  
 4980 Legislature to provide for the administration of this program.  
 4981 Payment of the contributions, including contributions made by  
 4982 the employee, shall be made by the employer to the department,  
 4983 which shall forward the contributions to the designated company  
 4984 or companies contracting for payment of benefits for the member  
 4985 under the program.

4986 2. Each employer shall contribute on behalf of each member  
 4987 of the Senior Management Service Optional Annuity Program an  
 4988 amount equal to the unfunded actuarial accrued liability portion  
 4989 of the employer contribution which would be required for members  
 4990 of the Senior Management Service Class in the Florida Retirement  
 4991 System. This contribution shall be paid to the department for  
 4992 transfer to the Florida Retirement System Trust Fund.

4993 3. An Optional Annuity Program Trust Fund shall be  
 4994 established in the State Treasury and administered by the  
 4995 department to make payments to provider companies on behalf of  
 4996 the optional annuity program members, and to transfer the  
 4997 unfunded liability portion of the state optional annuity program  
 4998 contributions to the Florida Retirement System Trust Fund.

4999           4. Contributions required for social security by each  
 5000 employer and employee, in the amount required for social  
 5001 security coverage as now or hereafter may be provided by the  
 5002 federal Social Security Act shall be maintained for each member  
 5003 of the Senior Management Service retirement program and are in  
 5004 addition to the retirement contributions specified in this  
 5005 paragraph.

5006           5. Each member of the Senior Management Service Optional  
 5007 Annuity Program may contribute by way of salary reduction or  
 5008 deduction a percentage amount of the employee's gross  
 5009 compensation not to exceed the percentage amount contributed by  
 5010 the employer to the optional annuity program. Payment of the  
 5011 employee's contributions shall be made by the employer to the  
 5012 department, which shall forward the contributions to the  
 5013 designated company or companies contracting for payment of  
 5014 benefits for the member under the program.

5015           (e) Benefits.—

5016           1. Benefits under the Senior Management Service Optional  
 5017 Annuity Program are payable only to members of the program, or  
 5018 their beneficiaries as designated by the member in the contract  
 5019 with the provider company, and must be paid by the designated  
 5020 company in accordance with the terms of the annuity contract  
 5021 applicable to the member. A member must be terminated from all  
 5022 employment relationships with Florida Retirement System  
 5023 employers for 3 calendar months to begin receiving the employer-  
 5024 funded and employee-funded benefit. The member must meet the  
 5025 definition of termination in s. 121.021(39) beginning the month  
 5026 after receiving a benefit, including a distribution. Benefits

5027 funded by employer and employee contributions are payable under  
 5028 the terms of the contract to the member, his or her beneficiary,  
 5029 or his or her estate, in addition to:

5030 a. A lump-sum payment to the beneficiary upon the death of  
 5031 the member;

5032 b. A cash-out of a de minimis account upon the request of  
 5033 a former member who has been terminated for a minimum of 6  
 5034 calendar months from the employment that entitled him or her to  
 5035 optional annuity program participation. Such cash-out must be a  
 5036 complete liquidation of the account balance with that company  
 5037 and is subject to the Internal Revenue Code;

5038 c. A mandatory distribution of a de minimis account of a  
 5039 former member who has been terminated for a minimum of 6  
 5040 calendar months from the employment that entitled him or her to  
 5041 optional annuity program participation as authorized by the  
 5042 department; or

5043 d. A lump-sum direct rollover distribution whereby all  
 5044 accrued benefits, plus interest and investment earnings, are  
 5045 paid from the member's account directly to the custodian of an  
 5046 eligible retirement plan, as defined in s. 402(c)(8)(B) of the  
 5047 Internal Revenue Code, on behalf of the member.

5048 2. Under the Senior Management Service Optional Annuity  
 5049 Program, benefits, including employee contributions, are not  
 5050 payable for employee hardships, unforeseeable emergencies,  
 5051 loans, medical expenses, educational expenses, purchase of a  
 5052 principal residence, payments necessary to prevent eviction or  
 5053 foreclosure on an employee's principal residence, or any other  
 5054 reason before termination from all employment relationships with

HB 1261

2012

5055 participating employers for 3 calendar months.

5056 3. The benefits payable to any person under the Senior  
5057 Management Service Optional Annuity Program, and any  
5058 contribution accumulated under such program, are not subject to  
5059 assignment, execution, or attachment or to any legal process  
5060 whatsoever.

5061 4. Except as provided in subparagraph 5., a member who  
5062 terminates employment and receives a distribution, including a  
5063 rollover or trustee-to-trustee transfer, funded by employer and  
5064 required employee contributions is deemed to be retired from a  
5065 state-administered retirement system if the member is  
5066 subsequently employed with an employer that participates in the  
5067 Florida Retirement System.

5068 5. A member who receives optional annuity program benefits  
5069 funded by employer and employee contributions as a mandatory  
5070 distribution of a de minimis account authorized by the  
5071 department is not considered a retiree.

5072

5073 As used in this paragraph, a "de minimis account" means an  
5074 account with a provider company containing employer and employee  
5075 contributions and accumulated earnings of not more than \$5,000  
5076 made under this chapter.

5077 (f) Administration.—

5078 1. The Senior Management Service Optional Annuity Program  
5079 authorized by this section shall be administered by the  
5080 department. The department shall designate one or more provider  
5081 companies from which annuity contracts may be purchased under  
5082 the program and shall approve the form and content of the

HB 1261

2012

5083 | contracts. The department shall sign a contract with each of the  
5084 | provider companies and shall evaluate the performance of the  
5085 | provider companies on a continuing basis. The department may  
5086 | terminate the services of a provider company for reasons stated  
5087 | in the contract. The department shall adopt rules establishing  
5088 | its responsibilities and the responsibilities of employers in  
5089 | administering the optional annuity program.

5090 |         2. Effective July 1, 1997, the State Board of  
5091 | Administration shall review and make recommendations to the  
5092 | department on the acceptability of all investment products  
5093 | proposed by provider companies of the optional annuity program  
5094 | before such products are offered through annuity contracts to  
5095 | the participants and may advise the department of any changes  
5096 | deemed necessary to ensure that the optional annuity program  
5097 | offers an acceptable mix of investment products. The department  
5098 | shall make the final determination as to whether an investment  
5099 | product will be approved for the program.

5100 |         3. The provisions of each contract applicable to a  
5101 | participant in the Senior Management Service Optional Annuity  
5102 | Program shall be contained in a written program description  
5103 | which shall include a report of pertinent financial and  
5104 | actuarial information on the solvency and actuarial soundness of  
5105 | the program and the benefits applicable to the participant. Such  
5106 | description shall be furnished by the company or companies to  
5107 | each participant in the program and to the department upon  
5108 | commencement of participation in the program and annually  
5109 | thereafter.

5110 |         4. The department shall ensure that each participant in

HB 1261

2012

5111 the Senior Management Service Optional Annuity Program is  
5112 provided an accounting of the total contribution and the annual  
5113 contribution made by and on behalf of such participants.

5114 (g) Dual employment.—A participant in the optional annuity  
5115 program may not participate in more than one state-administered  
5116 retirement system, plan, or class simultaneously. The following  
5117 shall apply to a participant who is or becomes dually employed:

5118 1. A participant who is or becomes dually employed in two  
5119 or more positions covered by the Florida Retirement System, one  
5120 of which is eligible for the optional annuity program and one of  
5121 which is not, shall make one of the following choices:

5122 a. Remain a member of the optional annuity program, in  
5123 which case contributions shall be paid as required only on the  
5124 salary earned in the position eligible for the optional annuity  
5125 program during the period of dual employment;

5126 b. Elect, within 90 days after becoming dually employed,  
5127 membership in the Regular Class of the Florida Retirement System  
5128 in lieu of the optional annuity program, in which case  
5129 contributions shall be paid as required on the total salary  
5130 received for all employment, and, at retirement, the member's  
5131 average final compensation used to calculate any benefits for  
5132 which he or she becomes eligible under the Florida Retirement  
5133 System shall be based on all salary reported for all covered  
5134 positions during the period of dual employment; or

5135 c. If dually employed in an elected office eligible for  
5136 the Elected Officers' Class, select, within 6 months after  
5137 assuming office, membership in the Elected Officers' Class, in  
5138 which case, participation in the optional annuity program shall



HB 1261

2012

5139 | cease for the period of dual employment, retirement  
 5140 | contributions shall be paid as required only on the salary  
 5141 | earned as an elected officer, and, at retirement, the member's  
 5142 | benefit under the Florida Retirement System shall be based only  
 5143 | on the salary received as an elected officer for the period of  
 5144 | dual employment.

5145 |         2. When such member ceases to be dually employed, he or  
 5146 | she shall make one of the following choices:

5147 |         a. If the position in which he or she remains is a  
 5148 | position that is eligible for the optional annuity program, he  
 5149 | or she may, within 90 days after ceasing dual employment, elect  
 5150 | to remain in the Florida Retirement System class for which he or  
 5151 | she is eligible or to again become a participant in the optional  
 5152 | annuity program. Failure to elect membership in the optional  
 5153 | annuity program within 90 days shall result in compulsory  
 5154 | membership in the Florida Retirement System; or

5155 |         b. If the position in which he or she remains is not a  
 5156 | position that is eligible for the optional annuity program, he  
 5157 | or she shall participate in the Florida Retirement System class  
 5158 | for which he or she is eligible.

5159 |         Section 111. Paragraph (a) of subsection (2) of section  
 5160 | 121.35, Florida Statutes, is amended to read:

5161 |         121.35 Optional retirement program for the State  
 5162 | University System.—

5163 |         (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

5164 |         (a) Participation in the optional retirement program is  
 5165 | ~~provided by this section shall be~~ limited to persons who are  
 5166 | otherwise eligible for membership or renewed membership in the

HB 1261

2012

5167 Florida Retirement System and who are employed in one of the  
 5168 following State University System positions:

5169 1. Positions classified as instructional and research  
 5170 faculty which are exempt from the Civil ~~career~~ Service under ~~the~~  
 5171 ~~provisions of~~ s. 110.205(2) (d).

5172 2. Positions classified as administrative and professional  
 5173 which are exempt from the Civil ~~career~~ Service under ~~the~~  
 5174 ~~provisions of~~ s. 110.205(2) (d).

5175 3. The Chancellor and the university presidents.

5176 Section 112. Section 145.19, Florida Statutes, is amended  
 5177 to read:

5178 145.19 Annual percentage increases based on increase for  
 5179 civil ~~state-career~~ service employees; limitation.—

5180 (1) As used in this section, the term:

5181 (a) "Annual factor" means 1 plus the lesser of:

5182 1. The average percentage increase in the salaries of  
 5183 civil ~~state-career~~ service employees for the current fiscal year  
 5184 as determined by the Department of Management Services or as  
 5185 provided in the General Appropriations Act; or

5186 2. Seven percent.

5187 (b) "Cumulative annual factor" means the product of all  
 5188 annual factors certified under this act before ~~prior to~~ the  
 5189 fiscal year for which salaries are being calculated.

5190 (c) "Initial factor" means a factor of 1.292, which is a  
 5191 product, rounded to the nearest thousandth, of an earlier cost-  
 5192 of-living increase factor authorized by chapter 73-173, Laws of  
 5193 Florida, and intended by the Legislature to be preserved in  
 5194 adjustments to salaries made before the ~~prior to~~ enactment of

HB 1261

2012

5195 chapter 76-80, Laws of Florida, multiplied by the annual  
 5196 increase factor authorized by chapter 79-327, Laws of Florida.

5197 (2) Each fiscal year, the salaries of all officials listed  
 5198 in this chapter, s. 1001.395, and s. 1001.47 shall be adjusted.  
 5199 The adjusted salary rate is ~~shall be~~ the product, rounded to the  
 5200 nearest dollar, of the salary rate granted by the appropriate  
 5201 section of this chapter, s. 1001.395, or s. 1001.47 multiplied  
 5202 first by the initial factor, then by the cumulative annual  
 5203 factor, and finally by the annual factor. The Department of  
 5204 Management Services shall certify the annual factor and the  
 5205 cumulative annual factor ~~factors~~. Any special qualification  
 5206 salary received under this chapter, s. 1001.47, or the annual  
 5207 performance salary incentive available to elected  
 5208 superintendents under s. 1001.47 shall be added to the ~~such~~  
 5209 adjusted salary rate. The special qualification salary is ~~shall~~  
 5210 ~~be \$2,000, but shall not exceed \$2,000.~~

5211 Section 113. Subsection (2) of section 216.011, Florida  
 5212 Statutes, is amended to read:

5213 216.011 Definitions.—

5214 (2) For purposes of this chapter, terms related to the  
 5215 State Personnel System ~~are affairs of the state shall be~~ defined  
 5216 as ~~set forth~~ in s. 110.1054 ~~110.107~~.

5217 Section 114. Paragraph (b) of subsection (10) of section  
 5218 216.181, Florida Statutes, is amended to read:

5219 216.181 Approved budgets for operations and fixed capital  
 5220 outlay.—

5221 (10)

5222 (b) Lump-sum salary bonuses may be provided only if

HB 1261

2012

5223 specifically appropriated or provided pursuant to ~~s. 110.1245~~ or  
 5224 s. 216.1815.

5225 Section 115. Subsection (2) of section 260.0125, Florida  
 5226 Statutes, is amended to read:

5227 260.0125 Limitation on liability of private landowners  
 5228 whose property is designated as part of the statewide system of  
 5229 greenways and trails.—

5230 (2) Any private landowner who consents to designation of  
 5231 his or her land as part of the statewide system of greenways and  
 5232 trails pursuant to s. 260.016(2)(d) without compensation shall  
 5233 be considered a volunteer, as defined in s. 112.961 ~~110.501~~, and  
 5234 shall be covered by state liability protection pursuant to s.  
 5235 768.28, including s. 768.28(9).

5236 Section 116. Section 287.175, Florida Statutes, is amended  
 5237 to read:

5238 287.175 Penalties.—A violation of this part or a rule  
 5239 adopted under this part hereunder, pursuant to applicable  
 5240 constitutional and statutory procedures, constitutes misuse of  
 5241 public position as defined in s. 112.313(6)~~7~~ and is punishable  
 5242 as provided in s. 112.317. The Chief Financial Officer shall  
 5243 report incidents of suspected misuse to the Commission on  
 5244 Ethics, and the commission shall investigate possible violations  
 5245 of this part or rules adopted under this part hereunder when  
 5246 reported by the Chief Financial Officer, notwithstanding ~~the~~  
 5247 ~~provisions of~~ s. 112.324. Any violation of this part or a rule  
 5248 adopted under this part hereunder ~~is~~ shall be presumed to have  
 5249 been committed with wrongful intent, but such presumption is  
 5250 rebuttable. ~~Nothing in~~ This section is not intended to deny

HB 1261

2012

5251 rights provided to civil ~~career~~ service employees by s. 110.227.

5252 Section 117. Paragraph (a) of subsection (4) of section  
5253 295.07, Florida Statutes, is amended to read:

5254 295.07 Preference in appointment and retention.—

5255 (4) The following positions are exempt from this section:

5256 (a) Those positions that are exempt from the Civil ~~state~~  
5257 ~~Career Service System~~ under s. 110.205.~~(2)~~; However, all  
5258 positions under the University Support Personnel System of the  
5259 State University System as well as all civil ~~Career~~ service  
5260 ~~System~~ positions under the Florida Community College System and  
5261 the School for the Deaf and the Blind, or the equivalent of such  
5262 positions at state universities, community colleges, or the  
5263 School for the Deaf and the Blind, are included.

5264 Section 118. Paragraph (a) of subsection (1) of section  
5265 295.09, Florida Statutes, is amended to read:

5266 295.09 Reinstatement or reemployment; promotion  
5267 preference.—

5268 (1) (a) If ~~When~~ an employee of the state or any of its  
5269 political subdivisions employed in a position subject or not  
5270 subject to a civil ~~career~~ service ~~system~~ or other merit-type  
5271 system, with the exception of those positions that ~~which~~ are  
5272 exempt pursuant to s. 295.07(4), has served in the Armed Forces  
5273 of the United States and is discharged or separated from service  
5274 ~~therefrom~~ with an honorable discharge, the state or its  
5275 political subdivision shall reemploy or reinstate such person to  
5276 the same position that he or she held before ~~prior to~~ such  
5277 service in the armed forces, or to an equivalent position, if  
5278 ~~provided~~ such person returns to the position within 1 year after

HB 1261

2012

5279 ~~of~~ his or her date of separation or, in cases of extended active  
 5280 duty, within 1 year after ~~of~~ the date of discharge or separation  
 5281 subsequent to the extension. Such person shall also be awarded  
 5282 preference in promotion and shall be promoted ahead of all  
 5283 others who are as well qualified or less qualified for the  
 5284 position. If ~~When~~ an examination for promotion is used ~~utilized~~,  
 5285 such person shall be awarded preference points, as provided in  
 5286 s. 295.08, and shall be promoted ahead of all those who appear  
 5287 in an equal or lesser position on the promotional register, if  
 5288 ~~provided~~ he or she first successfully passes the examination for  
 5289 the promotional position.

5290 Section 119. Subsection (3) of section 296.04, Florida  
 5291 Statutes, is amended to read:

5292 296.04 Administrator; duties and qualifications;  
 5293 responsibilities.—

5294 (3) The administrator position shall be assigned to the  
 5295 Selected Exempt Service under part III ~~V~~ of chapter 110. The  
 5296 director shall give veterans ~~veterans'~~ preference in selecting  
 5297 an administrator, as provided in ss. 295.07 and 295.085. In  
 5298 addition, the administrator must have at least a 4-year degree  
 5299 from an accredited university or college and 3 years of  
 5300 administrative experience in a health care facility, or any  
 5301 equivalent combination of experience, training, and education  
 5302 totaling 7 years in work relating to administration of a health  
 5303 care facility.

5304 Section 120. Subsection (2) of section 296.34, Florida  
 5305 Statutes, is amended to read:

5306 296.34 Administrator; qualifications, duties, and

HB 1261

2012

5307 responsibilities.—

5308 (2) The position shall be assigned to the Selected Exempt  
 5309 Service under part III ~~∅~~ of chapter 110. The director shall give  
 5310 veterans preference in selecting an administrator, as provided  
 5311 in ss. 295.07 and 295.085. The administrator, at the time of  
 5312 entering employment and at all times while employed as the  
 5313 administrator, must hold a current valid license as a nursing  
 5314 home administrator under part II of chapter 468.

5315 Section 121. Subsection (2) of section 381.00315, Florida  
 5316 Statutes, is amended to read:

5317 381.00315 Public health advisories; public health  
 5318 emergencies.—The State Health Officer is responsible for  
 5319 declaring public health emergencies and issuing public health  
 5320 advisories.

5321 (2) Individuals who assist the State Health Officer at his  
 5322 or her request on a volunteer basis during a public health  
 5323 emergency are entitled to the benefits specified in s.

5324 112.964(2)-(5) ~~110.504(2), (3), (4), and (5)~~.

5325 Section 122. Paragraph (e) of subsection (3) of section  
 5326 381.85, Florida Statutes, is amended to read:

5327 381.85 Biomedical and social research.—

5328 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

5329 (e) The council shall be staffed by an executive director  
 5330 and a secretary, who shall be appointed by the council and who  
 5331 are ~~shall be~~ exempt from the provisions of part II of chapter  
 5332 110 relating to the Civil Career ~~Service System~~.

5333 Section 123. Paragraph (a) of subsection (3) of section  
 5334 394.47865, Florida Statutes, is amended to read:

HB 1261

2012

5335 | 394.47865 South Florida State Hospital; privatization.—

5336 | (3) (a) Current South Florida State Hospital employees who  
 5337 | are affected by the privatization shall be given first  
 5338 | preference for continued employment by the contractor. The  
 5339 | department shall make reasonable efforts to find suitable job  
 5340 | placements for employees who wish to remain within the Civil  
 5341 | ~~state Career Service System.~~

5342 | Section 124. Section 402.3057, Florida Statutes, is  
 5343 | amended to read:

5344 | 402.3057 Persons not required to be refingerprinted or  
 5345 | rescreened.—Notwithstanding any other provision of law to the  
 5346 | ~~contrary notwithstanding~~, human resource personnel who have been  
 5347 | fingerprinted or screened pursuant to chapters 393, 394, 397,  
 5348 | 402, and 409, and teachers and noninstructional personnel who  
 5349 | have been fingerprinted pursuant to chapter 1012, who have not  
 5350 | been unemployed for more than 90 days thereafter, and who under  
 5351 | the penalty of perjury attest to the completion of such  
 5352 | fingerprinting or screening and to compliance with ~~the~~  
 5353 | ~~provisions of~~ this section and the standards for good moral  
 5354 | character as contained in ~~such provisions as~~ ss. 112.926  
 5355 | ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and  
 5356 | 409.175(6), are ~~shall~~ not be required to be refingerprinted or  
 5357 | rescreened in order to comply with any caretaker screening or  
 5358 | fingerprinting requirements.

5359 | Section 125. Paragraph (a) of subsection (2) of section  
 5360 | 402.55, Florida Statutes, is amended to read:

5361 | 402.55 Management fellows program.—

5362 | (2) The departments are authorized to establish a



5363 management fellows program in order to provide highly qualified  
 5364 career candidates for key administrative and managerial  
 5365 positions in the departments. Such program shall include, but is  
 5366 not limited to:

5367 (a) The identification annually by the secretaries, the  
 5368 assistant secretaries, and the district administrator in each  
 5369 district of one high-potential civil ~~career~~ service employee  
 5370 each, to be designated and appointed to serve as a full-time  
 5371 health and rehabilitative services management fellow for a  
 5372 ~~period of~~ 1 year.

5373 Section 126. Subsection (4) of section 402.7305, Florida  
 5374 Statutes, is amended to read:

5375 402.7305 Department of Children and Family Services;  
 5376 procurement of contractual services; contract management.—

5377 (4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.—The  
 5378 department shall establish contract monitoring units staffed by  
 5379 civil ~~career~~ service employees who report to a member of the  
 5380 Selected Exempt Service or Senior Management Service and who  
 5381 have been properly trained to perform contract monitoring. At  
 5382 least one member of the contract monitoring unit must possess  
 5383 specific knowledge and experience in the contract's program  
 5384 area. The department shall establish a contract monitoring  
 5385 process that includes, but is not limited to, the following  
 5386 requirements:

5387 (a) Performing a risk assessment at the start of each  
 5388 fiscal year and preparing an annual contract monitoring schedule  
 5389 that considers the level of risk assigned. The department may  
 5390 monitor any contract at any time regardless of whether such

5391 monitoring was originally included in the annual contract  
 5392 monitoring schedule.

5393 (b) Preparing a contract monitoring plan, including  
 5394 sampling procedures, before performing onsite monitoring at  
 5395 external locations of a service provider. The plan must include  
 5396 a description of the programmatic, fiscal, and administrative  
 5397 components that will be monitored on site. If appropriate,  
 5398 clinical and therapeutic components may be included.

5399 (c) Conducting analyses of the performance and compliance  
 5400 of an external service provider by means of desk reviews if the  
 5401 external service provider will not be monitored on site during a  
 5402 fiscal year.

5403 (d) Unless the department sets forth in writing the need  
 5404 for an extension, providing a written report presenting the  
 5405 results of the monitoring within 30 days after the completion of  
 5406 the onsite monitoring or desk review.

5407 (e) Developing and maintaining a set of procedures  
 5408 describing the contract monitoring process.

5409  
 5410 Notwithstanding any other provision of this section, the  
 5411 department shall limit monitoring of a child-caring or child-  
 5412 placing services provider under this subsection to only once per  
 5413 year. Such monitoring may not duplicate administrative  
 5414 monitoring that is included in the survey of a child welfare  
 5415 provider conducted by a national accreditation organization  
 5416 specified under s. 402.7306(1).

5417 Section 127. Subsection (2) of section 402.731, Florida  
 5418 Statutes, is amended to read:

HB 1261

2012

5419 402.731 Department of Children and Family Services  
 5420 certification programs for employees and service providers;  
 5421 employment provisions for transition to community-based care.-

5422 (2) The department shall develop and implement employment  
 5423 programs to attract and retain competent staff to support and  
 5424 facilitate the transition to privatized community-based care.  
 5425 Such ~~employment~~ programs must ~~shall~~ include lump-sum bonuses,  
 5426 salary incentives, relocation allowances, or severance pay. The  
 5427 department shall also contract for the delivery or  
 5428 administration of outplacement services. The department shall  
 5429 establish time-limited exempt positions as provided in s.  
 5430 110.205(2)(f) ~~110.205(2)(i)~~, in accordance with the authority  
 5431 provided in s. 216.262(1)(c)1. Employees appointed to fill such  
 5432 exempt positions shall have the same salaries and benefits as  
 5433 civil ~~career~~ service employees.

5434 Section 128. Section 409.1757, Florida Statutes, is  
 5435 amended to read:

5436 409.1757 Persons not required to be refingerprinted or  
 5437 rescreened.-Notwithstanding any other provision of law ~~to the~~  
 5438 ~~contrary notwithstanding~~, human resource personnel who have been  
 5439 fingerprinted or screened pursuant to chapters 393, 394, 397,  
 5440 402, and this chapter, and teachers who have been fingerprinted  
 5441 pursuant to chapter 1012, who have not been unemployed for more  
 5442 than 90 days thereafter, and who under the penalty of perjury  
 5443 attest to the completion of such fingerprinting or screening and  
 5444 to compliance with ~~the provisions of~~ this section and the  
 5445 standards for good moral character as contained in ~~such~~  
 5446 ~~provisions as~~ ss. 112.926 ~~110.1127(3)~~, 393.0655(1), 394.457(6),

HB 1261

2012

5447 397.451, 402.305(2), and 409.175(6), are ~~shall~~ not be required  
 5448 to be refingerprinted or rescreened in order to comply with any  
 5449 caretaker screening or fingerprinting requirements.

5450 Section 129. Subsection (1) of section 409.9205, Florida  
 5451 Statutes, is amended to read:

5452 409.9205 Medicaid Fraud Control Unit.—

5453 (1) Except as provided in s. 110.205, all positions in the  
 5454 Medicaid Fraud Control Unit of the Department of Legal Affairs  
 5455 are ~~hereby~~ transferred to the Civil Career Service System.

5456 Section 130. Section 414.37, Florida Statutes, is amended  
 5457 to read:

5458 414.37 Public assistance overpayment recovery  
 5459 privatization; reemployment of laid-off ~~career-service~~  
 5460 employees.—Should civil ~~career~~ service employees of the  
 5461 Department of Children and Family Services be subject to layoff  
 5462 after July 1, 1995, due to the privatization of public  
 5463 assistance overpayment recovery functions, the privatization  
 5464 contract must ~~shall~~ require the contracting firm to give  
 5465 priority consideration to employment of such employees. In  
 5466 addition, a task force composed of representatives from the  
 5467 Department of Children and Family Services and the Department of  
 5468 Management Services shall be established to provide reemployment  
 5469 assistance to such employees.

5470 Section 131. Subsection (7) of section 427.012, Florida  
 5471 Statutes, is amended to read:

5472 427.012 The Commission for the Transportation  
 5473 Disadvantaged.—There is created the Commission for the  
 5474 Transportation Disadvantaged in the Department of

HB 1261

2012

5475 Transportation.

5476 (7) The commission shall appoint an executive director who  
 5477 shall serve under the direction, supervision, and control of the  
 5478 commission. The executive director, with the consent of the  
 5479 commission, shall employ such personnel as ~~may be~~ necessary to  
 5480 perform adequately the functions of the commission within  
 5481 budgetary limitations. Employees of the commission are exempt  
 5482 from the Civil Career Service System.

5483 Section 132. Paragraph (o) of subsection (1) of section  
 5484 440.102, Florida Statutes, is amended to read:

5485 440.102 Drug-free workplace program requirements.—The  
 5486 following provisions apply to a drug-free workplace program  
 5487 implemented pursuant to law or to rules adopted by the Agency  
 5488 for Health Care Administration:

5489 (1) DEFINITIONS.—Except where the context otherwise  
 5490 requires, as used in this act:

5491 (o) "Safety-sensitive position" means, with respect to a  
 5492 public employer, a position in which a drug impairment  
 5493 constitutes an immediate and direct threat to public health or  
 5494 safety, such as a position that requires the employee to carry a  
 5495 firearm, perform life-threatening procedures, work with  
 5496 confidential information or documents pertaining to criminal  
 5497 investigations, or work with controlled substances; a position  
 5498 subject to s. 112.926 ~~110.1127~~; or a position in which a  
 5499 momentary lapse in attention could result in injury or death to  
 5500 another person.

5501 Section 133. Subsection (2) of section 447.203, Florida  
 5502 Statutes, is amended to read:

HB 1261

2012

5503 447.203 Definitions.—As used in this part:  
 5504 (2) "Public employer" or "employer" means the state or any  
 5505 county, municipality, or special district, or any subdivision or  
 5506 agency thereof, that ~~which~~ the commission determines has  
 5507 sufficient legal distinctiveness ~~properly~~ to properly carry out  
 5508 the functions of a public employer. With respect to all public  
 5509 employees determined by the commission as properly belonging to  
 5510 a statewide bargaining unit composed of state civil ~~Career~~  
 5511 ~~System~~ employees or selected exempt ~~Professional~~ service  
 5512 employees, the Governor is ~~shall be deemed to be~~ the public  
 5513 employer, † and the Board of Governors of the State University  
 5514 System, or the board's designee, is ~~shall be deemed to be~~ the  
 5515 public employer with respect to all public employees of each  
 5516 constituent state university. The board of trustees of a  
 5517 community college is ~~shall be deemed to be~~ the public employer  
 5518 with respect to all employees of the community college. The  
 5519 district school board is ~~shall be deemed to be~~ the public  
 5520 employer with respect to all employees of the school district.  
 5521 The Board of Trustees of the Florida School for the Deaf and the  
 5522 Blind is ~~shall be deemed to be~~ the public employer with respect  
 5523 to the academic and academic administrative personnel of the  
 5524 Florida School for the Deaf and the Blind. The Governor is ~~shall~~  
 5525 ~~be deemed to be~~ the public employer with respect to all  
 5526 employees in the Correctional Education Program of the  
 5527 Department of Corrections established pursuant to s. 944.801.  
 5528 Section 134. Subsections (8) and (9) of section 447.207,  
 5529 Florida Statutes, are amended to read:  
 5530 447.207 Commission; powers and duties.—

HB 1261

2012

5531 (8) The commission or its designated agent shall hear  
 5532 appeals arising out of any suspension, reduction in pay,  
 5533 demotion, or dismissal of any permanent employee in the Civil  
 5534 ~~State Career Service System~~ in the manner provided in s.  
 5535 110.227.

5536 (9) Pursuant to s. 447.208, the commission or its  
 5537 designated agent shall hear appeals, and enter such orders as it  
 5538 deems appropriate, arising out of:

5539 ~~(a) Section 110.124, relating to termination or transfer~~  
 5540 ~~of State Career Service System employees aged 65 or older.~~

5541 (a) ~~(b)~~ Section 112.044(4), relating to age discrimination.

5542 (b) ~~(c)~~ Section 295.11, relating to reasons for not  
 5543 employing a preferred veteran applicant.

5544 Section 135. Section 447.209, Florida Statutes, is amended  
 5545 to read:

5546 447.209 Public employer's rights.—It is the right of the  
 5547 public employer to determine unilaterally the purpose of each of  
 5548 its constituent agencies, set standards of services to be  
 5549 offered to the public, and exercise control and discretion over  
 5550 its organization and operations. It is also the right of the  
 5551 public employer to direct its employees, take disciplinary  
 5552 action for proper cause, and relieve its employees from duty  
 5553 because of lack of work or for other legitimate reasons.  
 5554 However, the exercise of such rights does ~~shall~~ not preclude  
 5555 employees or their representatives from raising grievances,  
 5556 should decisions on the above matters have the practical  
 5557 consequence of violating the terms and conditions of any  
 5558 collective bargaining agreement in force or any civil ~~or career~~

HB 1261

2012

5559 | service rule ~~regulation~~.

5560 |       Section 136. Section 447.401, Florida Statutes, is amended

5561 | to read:

5562 |       447.401 Grievance procedures.—Each public employer and

5563 | bargaining agent shall negotiate a grievance procedure to be

5564 | used for the settlement of disputes between employer and

5565 | employee, or group of employees, involving the interpretation or

5566 | application of a collective bargaining agreement. Such grievance

5567 | procedure shall have as its terminal step a final and binding

5568 | disposition by an impartial neutral, mutually selected by the

5569 | parties; however, if ~~when~~ the issue under appeal is an

5570 | allegation of abuse, abandonment, or neglect by an employee

5571 | under s. 39.201 or s. 415.1034, the grievance may not be decided

5572 | until the abuse, abandonment, or neglect of a child has been

5573 | judicially determined. However, an arbiter or other neutral may

5574 | ~~shall not have the power to~~ add to, subtract from, modify, or

5575 | alter the terms of a collective bargaining agreement. If an

5576 | employee organization is certified as the bargaining agent of a

5577 | unit, the grievance procedure then in existence may be the

5578 | subject of collective bargaining, and any agreement that ~~which~~

5579 | is reached supersedes ~~shall supersede~~ the previously existing

5580 | procedure. All public employees shall have the right to a fair

5581 | and equitable grievance procedure administered without regard to

5582 | membership or nonmembership in any organization, except that

5583 | certified employee organizations may ~~shall~~ not be required to

5584 | process grievances for employees who are not members of the

5585 | organization. A civil ~~career~~ service employee may use ~~shall have~~

5586 | ~~the option of utilizing~~ the civil service appeal procedure, an



HB 1261

2012

5587 | unfair labor practice procedure, or a grievance procedure  
 5588 | established under this section, but such employee may not avail  
 5589 | ~~is precluded from availing~~ himself or herself of ~~to~~ more than  
 5590 | one of these procedures.

5591 | Section 137. Paragraph (a) of subsection (2) of section  
 5592 | 456.048, Florida Statutes, is amended to read:

5593 | 456.048 Financial responsibility requirements for certain  
 5594 | health care practitioners.—

5595 | (2) The board or department may grant exemptions upon  
 5596 | application by practitioners meeting any of the following  
 5597 | criteria:

5598 | (a) Any person licensed under chapter 457, s. 458.3475, s.  
 5599 | 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or  
 5600 | chapter 467 who practices exclusively as an officer, employee,  
 5601 | or agent of the Federal Government or of the state or its  
 5602 | agencies or its subdivisions. For the purposes of this  
 5603 | subsection, an agent of the state, its agencies, or its  
 5604 | subdivisions is a person who is eligible for coverage under any  
 5605 | self-insurance or insurance program authorized by ~~the provisions~~  
 5606 | ~~of~~ s. 768.28(16) or who is a volunteer under s. 112.961  
 5607 | ~~110.501(1)~~.

5608 | Section 138. Section 551.116, Florida Statutes, is amended  
 5609 | to read:

5610 | 551.116 Days and hours of operation.—Slot machine gaming  
 5611 | areas may be open daily throughout the year. The slot machine  
 5612 | gaming areas may be open a cumulative amount of 18 hours per day  
 5613 | on Monday through Friday and 24 hours per day on Saturday and  
 5614 | Sunday and on those holidays specified in s. 112.927(1)

HB 1261

2012

5615 ~~110.117(1).~~

5616 Section 139. Subsection (29) of section 570.07, Florida  
5617 Statutes, is amended to read:

5618 570.07 Department of Agriculture and Consumer Services;  
5619 functions, powers, and duties.—The department shall have and  
5620 exercise the following functions, powers, and duties:

5621 (29) To advance funds monthly to civil ~~career~~ service  
5622 employees to be used for the purchase of official state samples  
5623 for state examination. Each monthly advance shall be ~~in an~~  
5624 ~~amount~~ equal to one-twelfth of the actual expenses paid the  
5625 position for samples in the previous fiscal year or, in the case  
5626 of a new position, one-twelfth of the expenses paid for samples  
5627 of a similar classification in the previous fiscal year;  
5628 however, in the event of unusual circumstances, such advances  
5629 may be increased for up to ~~a period not to exceed~~ 60 days.

5630 Advances shall be granted only to civil ~~career~~ service employees  
5631 who have executed a proper power of attorney with the department  
5632 to ensure the collection of such advances if not timely repaid.

5633 Section 140. Subsection (6) of section 624.307, Florida  
5634 Statutes, is amended to read:

5635 624.307 General powers; duties.—

5636 (6) The department and office may each employ actuaries  
5637 who shall be at-will employees and who shall serve at the  
5638 pleasure of the Chief Financial Officer, in the case of  
5639 department employees, or at the pleasure of the director of the  
5640 office, in the case of office employees. Actuaries employed  
5641 pursuant to this paragraph must ~~shall~~ be members of the Society  
5642 of Actuaries or the Casualty Actuarial Society and are ~~shall be~~

HB 1261

2012

5643 exempt from the Civil Career Service ~~System~~ established under  
 5644 chapter 110. The salaries of the actuaries employed pursuant to  
 5645 this paragraph ~~shall be set in accordance with s.~~  
 5646 ~~216.251(2)(a)5.~~ and shall be set at levels ~~which are~~  
 5647 commensurate with those ~~salary levels~~ paid to actuaries by the  
 5648 insurance industry.

5649 Section 141. Subsection (3) of section 624.437, Florida  
 5650 Statutes, is amended to read:

5651 624.437 "Multiple-employer welfare arrangement" defined;  
 5652 certificate of authority required; penalty.-

5653 (3) This section does not apply to a multiple-employer  
 5654 welfare arrangement that ~~which~~ offers or provides benefits that  
 5655 ~~which~~ are fully insured by an authorized insurer, to an  
 5656 arrangement that ~~which~~ is exempt from state insurance regulation  
 5657 in accordance with Pub. L. No. 93-406, the Employee Retirement  
 5658 Income Security Act, or to the state group health insurance  
 5659 program administered under ~~pursuant to s. 112.942 110.123.~~

5660 Section 142. Paragraph (h) of subsection (4) of section  
 5661 627.6488, Florida Statutes, is amended to read:

5662 627.6488 Florida Comprehensive Health Association.-

5663 (4) The association shall:

5664 (h) Contract with preferred provider organizations and  
 5665 health maintenance organizations giving due consideration to  
 5666 those ~~the preferred provider organizations and health~~  
 5667 ~~maintenance~~ organizations that ~~which~~ have contracted with the  
 5668 state group health insurance program pursuant to s. 112.942  
 5669 ~~110.123~~. If cost-effective and available in the county where the  
 5670 policyholder resides, the board, upon application or renewal of

HB 1261

2012

5671 a policy, shall place a high-risk individual, as established  
 5672 under s. 627.6498(4)(a)4., with the plan case manager who shall  
 5673 determine the most cost-effective quality care system or health  
 5674 care provider and shall place the individual in such system or  
 5675 with such health care provider. If cost-effective and available  
 5676 in the county where the policyholder resides, the board, with  
 5677 the consent of the policyholder, may place a low-risk or medium-  
 5678 risk individual, as established under s. 627.6498(4)(a)4., with  
 5679 the plan case manager who may determine the most cost-effective  
 5680 quality care system or health care provider and shall place the  
 5681 individual in such system or with such health care provider.  
 5682 Before ~~Prior to~~ and during the implementation of case  
 5683 management, the plan case manager shall obtain input from the  
 5684 policyholder, parent, or guardian.

5685 Section 143. Paragraph (a) of subsection (1) of section  
 5686 627.649, Florida Statutes, is amended to read:

5687 627.649 Administrator.—

5688 (1) The board shall select an administrator, through a  
 5689 competitive bidding process, to administer the plan. The board  
 5690 shall evaluate bids submitted under this subsection based on  
 5691 criteria established by the board, which criteria shall include:

5692 (a) The administrator's proven ability to handle large  
 5693 group accident and health insurance. ~~and~~ Due consideration  
 5694 shall be given to an ~~any~~ administrator who has acted as a third-  
 5695 party administrator for the state group health insurance program  
 5696 pursuant to s. 112.942 ~~110.123~~.

5697 Section 144. Paragraph (a) of subsection (2) and  
 5698 subsection (3) of section 627.6498, Florida Statutes, are

HB 1261

2012

5699 amended to read:

5700 627.6498 Minimum benefits coverage; exclusions; premiums;  
5701 deductibles.—

5702 (2) BENEFITS.—

5703 (a) The plan shall offer major medical expense coverage  
5704 similar to that provided by the state group health insurance  
5705 program under ~~as defined in s. 112.942, 110.123~~ except as  
5706 specified in subsection (3), to every eligible person who is not  
5707 eligible for Medicare. Major medical expense coverage offered  
5708 under the plan must ~~shall~~ pay an eligible person's covered  
5709 expenses, subject to limits on the deductible and coinsurance  
5710 payments authorized under subsection (4), up to a lifetime limit  
5711 of \$500,000 per covered individual. The maximum limit may ~~under~~  
5712 ~~this paragraph shall~~ not be altered by the board, and an ~~no~~  
5713 actuarially equivalent benefit may not be substituted by the  
5714 board.

5715 (3) COVERED EXPENSES.—The coverage to be issued by the  
5716 association must ~~shall~~ be patterned after the state group health  
5717 insurance program as provided ~~defined~~ in s. 112.942 ~~110.123~~,  
5718 including its benefits, exclusions, and other limitations,  
5719 except as otherwise provided in this act. The plan may cover the  
5720 cost of experimental drugs that ~~which~~ have been approved for use  
5721 by the Food and Drug Administration on an experimental basis if  
5722 the cost is less than the usual and customary treatment. Such  
5723 coverage applies ~~shall~~ only apply to those insureds who are in  
5724 the case management system upon the approval of the insured, the  
5725 case manager, and the board.

5726 Section 145. Subsection (4) of section 627.6617, Florida

HB 1261

2012

5727 Statutes, is amended to read:

5728 627.6617 Coverage for home health care services.—

5729 (4) ~~The provisions of~~ This section does ~~shall~~ not apply to  
 5730 a multiple-employer welfare arrangement as defined in s.  
 5731 624.437(1) and in the State Health Plan as provided in s.  
 5732 112.942 ~~110.123~~.

5733 Section 146. Paragraph (d) of subsection (2) of section  
 5734 627.6686, Florida Statutes, is amended to read:

5735 627.6686 Coverage for individuals with autism spectrum  
 5736 disorder required; exception.—

5737 (2) As used in this section, the term:

5738 (d) "Health insurance plan" means a group health insurance  
 5739 policy or group health benefit plan offered by an insurer which  
 5740 includes the state group insurance program provided under s.  
 5741 112.942 ~~110.123~~. The term does not include a ~~any~~ health  
 5742 insurance plan offered in the individual market, ~~any health~~  
 5743 ~~insurance plan~~ that is individually underwritten, ~~or any health~~  
 5744 ~~insurance plan~~ provided to a small employer.

5745 Section 147. Paragraph (b) of subsection (7) of section  
 5746 849.086, Florida Statutes, is amended to read:

5747 849.086 Cardrooms authorized.—

5748 (7) CONDITIONS FOR OPERATING A CARDROOM.—

5749 (b) Any cardroom operator may operate a cardroom at the  
 5750 pari-mutuel facility daily throughout the year, if the  
 5751 permitholder meets the requirements under paragraph (5) (b). The  
 5752 cardroom may be open a cumulative amount of 18 hours per day on  
 5753 Monday through Friday and 24 hours per day on Saturday and  
 5754 Sunday and on the holidays specified in s. 112.927(1)

HB 1261

2012

5755 ~~110.117(1).~~

5756 Section 148. Paragraph (a) of subsection (4) of section  
5757 943.0585, Florida Statutes, is amended to read:

5758 943.0585 Court-ordered expunction of criminal history  
5759 records.—The courts of this state have jurisdiction over their  
5760 own procedures, including the maintenance, expunction, and  
5761 correction of judicial records containing criminal history  
5762 information to the extent such procedures are not inconsistent  
5763 with the conditions, responsibilities, and duties established by  
5764 this section. Any court of competent jurisdiction may order a  
5765 criminal justice agency to expunge the criminal history record  
5766 of a minor or an adult who complies with the requirements of  
5767 this section. The court shall not order a criminal justice  
5768 agency to expunge a criminal history record until the person  
5769 seeking to expunge a criminal history record has applied for and  
5770 received a certificate of eligibility for expunction pursuant to  
5771 subsection (2). A criminal history record that relates to a  
5772 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
5773 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.  
5774 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
5775 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
5776 any violation specified as a predicate offense for registration  
5777 as a sexual predator pursuant to s. 775.21, without regard to  
5778 whether that offense alone is sufficient to require such  
5779 registration, or for registration as a sexual offender pursuant  
5780 to s. 943.0435, may not be expunged, without regard to whether  
5781 adjudication was withheld, if the defendant was found guilty of  
5782 or pled guilty or nolo contendere to the offense, or if the

HB 1261

2012

5783 defendant, as a minor, was found to have committed, or pled  
5784 guilty or nolo contendere to committing, the offense as a  
5785 delinquent act. The court may only order expunction of a  
5786 criminal history record pertaining to one arrest or one incident  
5787 of alleged criminal activity, except as provided in this  
5788 section. The court may, at its sole discretion, order the  
5789 expunction of a criminal history record pertaining to more than  
5790 one arrest if the additional arrests directly relate to the  
5791 original arrest. If the court intends to order the expunction of  
5792 records pertaining to such additional arrests, such intent must  
5793 be specified in the order. A criminal justice agency may not  
5794 expunge any record pertaining to such additional arrests if the  
5795 order to expunge does not articulate the intention of the court  
5796 to expunge a record pertaining to more than one arrest. This  
5797 section does not prevent the court from ordering the expunction  
5798 of only a portion of a criminal history record pertaining to one  
5799 arrest or one incident of alleged criminal activity.

5800 Notwithstanding any law to the contrary, a criminal justice  
5801 agency may comply with laws, court orders, and official requests  
5802 of other jurisdictions relating to expunction, correction, or  
5803 confidential handling of criminal history records or information  
5804 derived therefrom. This section does not confer any right to the  
5805 expunction of any criminal history record, and any request for  
5806 expunction of a criminal history record may be denied at the  
5807 sole discretion of the court.

5808 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any  
5809 criminal history record of a minor or an adult which is ordered  
5810 expunged by a court of competent jurisdiction pursuant to this



HB 1261

2012

5811 section must be physically destroyed or obliterated by any  
 5812 criminal justice agency having custody of such record; except  
 5813 that any criminal history record in the custody of the  
 5814 department must be retained in all cases. A criminal history  
 5815 record ordered expunged that is retained by the department is  
 5816 confidential and exempt from the provisions of s. 119.07(1) and  
 5817 s. 24(a), Art. I of the State Constitution and not available to  
 5818 any person or entity except upon order of a court of competent  
 5819 jurisdiction. A criminal justice agency may retain a notation  
 5820 indicating compliance with an order to expunge.

5821 (a) The person who is the subject of a criminal history  
 5822 record that is expunged under this section or under other  
 5823 provisions of law, including former s. 893.14, former s. 901.33,  
 5824 and former s. 943.058, may lawfully deny or fail to acknowledge  
 5825 the arrests covered by the expunged record, unless ~~except when~~  
 5826 the subject of the record:

- 5827 1. Is a candidate for employment with a criminal justice  
 5828 agency;
- 5829 2. Is a defendant in a criminal prosecution;
- 5830 3. Concurrently or subsequently petitions for relief under  
 5831 this section or s. 943.059;
- 5832 4. Is a candidate for admission to The Florida Bar;
- 5833 5. Is seeking to be employed or licensed by or to contract  
 5834 with the Department of Children and Family Services, the Agency  
 5835 for Health Care Administration, the Agency for Persons with  
 5836 Disabilities, or the Department of Juvenile Justice or to be  
 5837 employed or used by such contractor or licensee in a sensitive  
 5838 position having direct contact with children, the

HB 1261

2012

5839 | developmentally disabled, the aged, or the elderly as provided  
 5840 | in s. 112.926 ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.  
 5841 | 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
 5842 | 415.102(5), chapter 916, s. 985.644, chapter 400, or chapter  
 5843 | 429;

5844 |         6. Is seeking to be employed or licensed by the Department  
 5845 | of Education, any district school board, any university  
 5846 | laboratory school, any charter school, any private or parochial  
 5847 | school, or any local governmental entity that licenses child  
 5848 | care facilities; or

5849 |         7. Is seeking authorization from a seaport listed in s.  
 5850 | 311.09 for employment within or access to one or more of such  
 5851 | seaports pursuant to s. 311.12.

5852 |         Section 149. Paragraph (a) of subsection (4) of section  
 5853 | 943.059, Florida Statutes, is amended to read:

5854 |         943.059 Court-ordered sealing of criminal history  
 5855 | records.—The courts of this state shall continue to have  
 5856 | jurisdiction over their own procedures, including the  
 5857 | maintenance, sealing, and correction of judicial records  
 5858 | containing criminal history information to the extent such  
 5859 | procedures are not inconsistent with the conditions,  
 5860 | responsibilities, and duties established by this section. Any  
 5861 | court of competent jurisdiction may order a criminal justice  
 5862 | agency to seal the criminal history record of a minor or an  
 5863 | adult who complies with the requirements of this section. The  
 5864 | court shall not order a criminal justice agency to seal a  
 5865 | criminal history record until the person seeking to seal a  
 5866 | criminal history record has applied for and received a

HB 1261

2012

5867 certificate of eligibility for sealing pursuant to subsection  
 5868 (2). A criminal history record that relates to a violation of s.  
 5869 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.  
 5870 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter  
 5871 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.  
 5872 916.1075, a violation enumerated in s. 907.041, or any violation  
 5873 specified as a predicate offense for registration as a sexual  
 5874 predator pursuant to s. 775.21, without regard to whether that  
 5875 offense alone is sufficient to require such registration, or for  
 5876 registration as a sexual offender pursuant to s. 943.0435, may  
 5877 not be sealed, without regard to whether adjudication was  
 5878 withheld, if the defendant was found guilty of or pled guilty or  
 5879 nolo contendere to the offense, or if the defendant, as a minor,  
 5880 was found to have committed or pled guilty or nolo contendere to  
 5881 committing the offense as a delinquent act. The court may only  
 5882 order sealing of a criminal history record pertaining to one  
 5883 arrest or one incident of alleged criminal activity, except as  
 5884 provided in this section. The court may, at its sole discretion,  
 5885 order the sealing of a criminal history record pertaining to  
 5886 more than one arrest if the additional arrests directly relate  
 5887 to the original arrest. If the court intends to order the  
 5888 sealing of records pertaining to such additional arrests, such  
 5889 intent must be specified in the order. A criminal justice agency  
 5890 may not seal any record pertaining to such additional arrests if  
 5891 the order to seal does not articulate the intention of the court  
 5892 to seal records pertaining to more than one arrest. This section  
 5893 does not prevent the court from ordering the sealing of only a  
 5894 portion of a criminal history record pertaining to one arrest or

5895 one incident of alleged criminal activity. Notwithstanding any  
 5896 law to the contrary, a criminal justice agency may comply with  
 5897 laws, court orders, and official requests of other jurisdictions  
 5898 relating to sealing, correction, or confidential handling of  
 5899 criminal history records or information derived therefrom. This  
 5900 section does not confer any right to the sealing of any criminal  
 5901 history record, and any request for sealing a criminal history  
 5902 record may be denied at the sole discretion of the court.

5903 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal  
 5904 history record of a minor or an adult which is ordered sealed by  
 5905 a court of competent jurisdiction pursuant to this section is  
 5906 confidential and exempt from the provisions of s. 119.07(1) and  
 5907 s. 24(a), Art. I of the State Constitution and is available only  
 5908 to the person who is the subject of the record, to the subject's  
 5909 attorney, to criminal justice agencies for their respective  
 5910 criminal justice purposes, which include conducting a criminal  
 5911 history background check for approval of firearms purchases or  
 5912 transfers as authorized by state or federal law, to judges in  
 5913 the state courts system for the purpose of assisting them in  
 5914 their case-related decisionmaking responsibilities, as set forth  
 5915 in s. 943.053(5), or to those entities set forth in  
 5916 subparagraphs (a)1., 4., 5., 6., and 8. for their respective  
 5917 licensing, access authorization, and employment purposes.

5918 (a) The subject of a criminal history record sealed under  
 5919 this section or under other provisions of law, including former  
 5920 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully  
 5921 deny or fail to acknowledge the arrests covered by the sealed  
 5922 record, unless ~~except when~~ the subject of the record:

HB 1261

2012

- 5923 | 1. Is a candidate for employment with a criminal justice  
 5924 | agency;
- 5925 | 2. Is a defendant in a criminal prosecution;
- 5926 | 3. Concurrently or subsequently petitions for relief under  
 5927 | this section or s. 943.0585;
- 5928 | 4. Is a candidate for admission to The Florida Bar;
- 5929 | 5. Is seeking to be employed or licensed by or to contract  
 5930 | with the Department of Children and Family Services, the Agency  
 5931 | for Health Care Administration, the Agency for Persons with  
 5932 | Disabilities, or the Department of Juvenile Justice or to be  
 5933 | employed or used by such contractor or licensee in a sensitive  
 5934 | position having direct contact with children, the  
 5935 | developmentally disabled, the aged, or the elderly as provided  
 5936 | in s. 112.926 ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.  
 5937 | 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.  
 5938 | 415.102(5), s. 415.103, chapter 916, s. 985.644, chapter 400, or  
 5939 | chapter 429;
- 5940 | 6. Is seeking to be employed or licensed by the Department  
 5941 | of Education, any district school board, any university  
 5942 | laboratory school, any charter school, any private or parochial  
 5943 | school, or any local governmental entity that licenses child  
 5944 | care facilities;
- 5945 | 7. Is attempting to purchase a firearm from a licensed  
 5946 | importer, licensed manufacturer, or licensed dealer and is  
 5947 | subject to a criminal history check under state or federal law;  
 5948 | or
- 5949 | 8. Is seeking authorization from a Florida seaport  
 5950 | identified in s. 311.09 for employment within or access to one

HB 1261

2012

5951 or more of such seaports pursuant to s. 311.12.

5952 Section 150. Subsection (2) of section 945.043, Florida  
 5953 Statutes, is amended to read:

5954 945.043 Department-operated day care services.—

5955 (2) The department is exempt from ~~the requirements of s.~~  
 5956 112.915 ~~110.151~~.

5957 Section 151. Subsection (1) of section 946.525, Florida  
 5958 Statutes, is amended to read:

5959 946.525 Participation by the corporation in the state  
 5960 group health insurance and prescription drug programs.—

5961 (1) The board of directors of the corporation established  
 5962 under this part may apply for participation in the state group  
 5963 health insurance program authorized under ~~in~~ s. 112.942 ~~110.123~~  
 5964 and the prescription drug coverage program authorized under ~~by~~  
 5965 s. 112.944 ~~110.123~~ ~~15~~ by submitting an application along with a  
 5966 \$500 nonrefundable fee to the Department of Management Services.

5967 Section 152. Paragraph (e) of subsection (4) of section  
 5968 985.045, Florida Statutes, is amended to read:

5969 985.045 Court records.—

5970 (4) A court record of proceedings under this chapter is  
 5971 not admissible in evidence in any other civil or criminal  
 5972 proceeding, except that:

5973 (e) Records of proceedings under this chapter may be used  
 5974 to prove disqualification under ss. 112.926 ~~110.1127~~, 393.0655,  
 5975 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and  
 5976 985.644.

5977 Section 153. Paragraph (k) of subsection (2) of section  
 5978 1001.705, Florida Statutes, is amended to read:

HB 1261

2012

5979 | 1001.705 Responsibility for the State University System  
 5980 | under s. 7, Art. IX of the State Constitution.—

5981 | (2) CONSTITUTIONAL DUTIES OF THE BOARD OF GOVERNORS OF THE  
 5982 | STATE UNIVERSITY SYSTEM.—In accordance with s. 7, Art. IX of the  
 5983 | State Constitution, the Board of Governors of the State  
 5984 | University System has the duty to operate, regulate, control,  
 5985 | and be fully responsible for the management of the whole  
 5986 | publicly funded State University System and the board, or the  
 5987 | board's designee, has responsibility for:

5988 | (k) Establishing a personnel system for all state  
 5989 | university employees; however, the Department of Management  
 5990 | Services shall retain authority over state university employees  
 5991 | for programs established in ss. 112.942 ~~110.123~~, 112.945  
 5992 | ~~110.1232~~, 112.946 ~~110.1234~~, 112.947 ~~110.1238~~, and 112.949  
 5993 | ~~110.161~~, and in chapters 121, 122, and 238.

5994 | Section 154. Paragraph (b) of subsection (6) of section  
 5995 | 1001.706, Florida Statutes, is amended to read:

5996 | 1001.706 Powers and duties of the Board of Governors.—

5997 | (6) POWERS AND DUTIES RELATING TO PERSONNEL.—

5998 | (b) The Department of Management Services shall retain  
 5999 | authority over state university employees for programs  
 6000 | established in ss. 112.942 ~~110.123~~, 112.945 ~~110.1232~~, 112.946  
 6001 | ~~110.1234~~, 112.947 ~~110.1238~~, and 112.949 ~~110.161~~ and in chapters  
 6002 | 121, 122, and 238. Unless specifically authorized by law,  
 6003 | neither the Board of Governors nor a state university may offer  
 6004 | group insurance programs for employees as a substitute for or as  
 6005 | an alternative to the health insurance programs offered pursuant  
 6006 | to chapter 112 ~~110~~.

HB 1261

2012

6007 Section 155. Paragraph (f) of subsection (4) and paragraph  
 6008 (f) of subsection (8) of section 1002.36, Florida Statutes, are  
 6009 amended to read:

6010 1002.36 Florida School for the Deaf and the Blind.—

6011 (4) BOARD OF TRUSTEES.—

6012 (f) The board of trustees shall:

6013 1. Prepare and submit legislative budget requests for  
 6014 operations and fixed capital outlay, in accordance with chapter  
 6015 216 and ss. 1011.56 and 1013.60, to the Department of Education  
 6016 for review and approval. The department must analyze the amount  
 6017 requested for fixed capital outlay to determine whether ~~if~~ the  
 6018 request is consistent with the school's campus master plan,  
 6019 educational plant survey, and facilities master plan.  
 6020 Projections of facility space needs may exceed the norm space  
 6021 and occupant design criteria established in the State  
 6022 Requirements for Educational Facilities.

6023 2. Approve and administer an annual operating budget in  
 6024 accordance with ss. 1011.56 and 1011.57.

6025 3. Require all funds received other than gifts, donations,  
 6026 bequests, funds raised by or belonging to student clubs or  
 6027 student organizations, and funds held for specific students or  
 6028 in accounts for individual students to be deposited in the State  
 6029 Treasury and expended as authorized in the General  
 6030 Appropriations Act.

6031 4. Require all purchases to be in accordance with ~~the~~  
 6032 ~~provisions of~~ chapter 287 except for purchases made with funds  
 6033 received as gifts, donations, or bequests; funds raised by or  
 6034 belonging to student clubs or student organizations; or funds



6035 held for specific students or in accounts for individual  
 6036 students.

6037 5. Administer and maintain personnel programs for all  
 6038 employees of the board of trustees and the Florida School for  
 6039 the Deaf and the Blind who shall be state employees, including  
 6040 the personnel classification and pay plan established in  
 6041 accordance with ss. 110.205(2)(s) ~~110.205(2)(d)~~ and  
 6042 216.251(2)(a)2. for academic and academic administrative  
 6043 personnel, the provisions of chapter 110, and the provisions of  
 6044 law that grant authority to the Department of Management  
 6045 Services over such programs for state employees.

6046 6. Give preference in appointment and retention in  
 6047 positions of employment as provided in ~~within~~ s. 295.07(1).

6048 7. Ensure that the Florida School for the Deaf and the  
 6049 Blind complies with s. 1013.351 concerning the coordination of  
 6050 planning between the Florida School for the Deaf and the Blind  
 6051 and local governing bodies.

6052 8. Ensure that the Florida School for the Deaf and the  
 6053 Blind complies with s. 112.061 concerning per diem and travel  
 6054 expenses of public officers, employees, and authorized persons  
 6055 with respect to all funds other than funds received as gifts,  
 6056 donations, or bequests; funds raised by or belonging to student  
 6057 clubs or student organizations; or funds held for specific  
 6058 students or in accounts for individual students.

6059 9. Adopt a master plan that ~~which~~ specifies the mission  
 6060 and objectives of the Florida School for the Deaf and the Blind.  
 6061 The plan shall include, but not be limited to, procedures for  
 6062 systematically measuring the school's progress toward meeting

HB 1261

2012

6063 | its objectives, analyzing changes in the student population, and  
 6064 | modifying school programs and services to respond to such  
 6065 | changes. The plan shall be for a period of 5 years and shall be  
 6066 | reviewed for needed modifications every 2 years. The board of  
 6067 | trustees shall submit the initial plan and subsequent  
 6068 | modifications to the Speaker of the House of Representatives and  
 6069 | the President of the Senate.

6070 |         10. Designate a portion of the school as "The Verle Allyn  
 6071 | Pope Complex for the Deaf," in tribute to the late Senator Verle  
 6072 | Allyn Pope.

6073 |         (8) CAMPUS POLICE.—

6074 |         (f) The board of trustees shall adopt rules, including,  
 6075 | without limitation, rules for the appointment, employment, and  
 6076 | removal of campus police in accordance with the Civil State  
 6077 | ~~Career~~ Service under chapter 110, System and shall establish in  
 6078 | writing a policy manual, that includes, without limitation,  
 6079 | procedures for managing routine law enforcement situations and  
 6080 | emergency law enforcement situations. The board of trustees  
 6081 | shall furnish a copy of the policy manual to each of the campus  
 6082 | police officers it employs. A campus police officer appointed by  
 6083 | the board of trustees must have completed the training required  
 6084 | by the school in the special needs and proper procedures for  
 6085 | dealing with students served by the school.

6086 |         Section 156. Section 1012.62, Florida Statutes, is amended  
 6087 | to read:

6088 |         1012.62 Transfer of sick leave and annual leave.—In  
 6089 | implementing ~~the provisions of~~ ss. 402.22(1)(d) and  
 6090 | 1001.42(4)(m), educational personnel in Department of Children

HB 1261

2012

6091 and Family Services residential care facilities who are employed  
 6092 by a district school board may request, and the district school  
 6093 board shall accept, a lump-sum transfer of accumulated sick  
 6094 leave for such personnel to the maximum allowed by policies of  
 6095 the district school board, notwithstanding ~~the provisions of s.~~  
 6096 112.910 ~~110.122~~. Educational personnel in Department of Children  
 6097 and Family Services residential care facilities who are employed  
 6098 by a district school board under ~~the provisions of s.~~  
 6099 402.22(1)(d) may request, and the district school board shall  
 6100 accept, a lump-sum transfer of accumulated annual leave for each  
 6101 person employed by the district school board in a position in  
 6102 the district eligible to accrue vacation leave under the  
 6103 policies of the district school board.

6104 Section 157. Subsection (5) of section 1012.79, Florida  
 6105 Statutes, is amended to read:

6106 1012.79 Education Practices Commission; organization.—

6107 (5) The commission, by a vote of three-fourths of the  
 6108 membership, shall employ an executive director, who shall be  
 6109 exempt from the Civil ~~career~~ Service. The executive director may  
 6110 be dismissed by a majority vote of the membership.

6111 Section 158. Subsection (6) of section 1012.88, Florida  
 6112 Statutes, is amended to read:

6113 1012.88 Florida College System institution police.—

6114 (6) The Florida College System institution, with the  
 6115 approval of the Department of Law Enforcement, shall adopt  
 6116 rules, including, without limitation, rules for the appointment,  
 6117 employment, and removal of Florida College System institution  
 6118 police in accordance with the Civil ~~state-Career~~ Service under

HB 1261

2012

6119 chapter 110, System and shall establish in writing a policy  
 6120 manual, that includes, without limitation, procedures for  
 6121 managing routine law enforcement situations and emergency law  
 6122 enforcement situations. The Florida College System institution  
 6123 shall furnish a copy of the policy manual to each of the police  
 6124 officers it employs.

6125 Section 159. Section 1012.96, Florida Statutes, is amended  
 6126 to read:

6127 1012.96 IFAS extension personnel; federal health insurance  
 6128 programs notwithstanding the provisions of s. 112.942 ~~110.123~~.—  
 6129 The Institute of Food and Agricultural Sciences at the  
 6130 University of Florida may pay the employer's share of premiums  
 6131 to the Federal Health Benefits Insurance Program from its  
 6132 appropriated budget for any cooperative extension employee of  
 6133 the institute having both state and federal appointments and  
 6134 participating in the Federal Civil Service Retirement System.

6135 Section 160. (1) The Department of Management Services  
 6136 shall conduct a study to determine whether efficiencies or cost  
 6137 savings can be achieved by consolidating the pay period for all  
 6138 state employees.

6139 (2) The Department of Management Services shall submit a  
 6140 report of its findings to the President of the Senate and the  
 6141 Speaker of the House of Representatives by December 1, 2012.

6142 Section 161. This act shall take effect July 1, 2012.