

By Senator Hays

20-01209-12

20121796

1                                   A bill to be entitled  
 2           An act relating to the preferred worker program;  
 3           amending s. 440.49, F.S.; deleting a preferred worker  
 4           program for permanently impaired workers who are  
 5           unable to return to work; conforming cross-references;  
 6           amending ss. 440.50 and 624.4626, F.S.; conforming  
 7           cross-references; providing an effective date.

8  
 9 Be It Enacted by the Legislature of the State of Florida:

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 11           Section 1. Present subsections (9) through (12) of section  
 12           440.49, Florida Statutes, are renumbered as subsections (8)  
 13           through (11), respectfully, and subsections (4) and (5),  
 14           paragraphs (c) and (d) of subsection (7), and present  
 15           subsection (8) and (11) of that section are amended to read:

16           440.49 Limitation of liability for subsequent injury  
 17           through Special Disability Trust Fund.—

18           (4) PERMANENT IMPAIRMENT OR PERMANENT TOTAL DISABILITY,  
 19           TEMPORARY BENEFITS, MEDICAL BENEFITS, OR ATTENDANT CARE AFTER  
 20           OTHER PHYSICAL IMPAIRMENT.—

21           (a) *Permanent impairment.*—If an employee who has a  
 22           preexisting permanent physical impairment incurs a subsequent  
 23           permanent impairment from injury or occupational disease arising  
 24           out of, and in the course of, her or his employment which merges  
 25           with the preexisting permanent physical impairment to cause a  
 26           permanent impairment, the employer shall, in the first instance,  
 27           pay all benefits provided by this chapter; but, subject to the  
 28           limitations specified in subsection (6), such employer shall be  
 29           reimbursed from the Special Disability Trust Fund ~~created by~~

20-01209-12

20121796

30 ~~subsection (9)~~ for 50 percent of all impairment benefits which  
31 the employer has been required to provide pursuant to s.  
32 440.15(3) as a result of the subsequent accident or occupational  
33 disease.

34 (b) *Permanent total disability.*—If an employee who has a  
35 preexisting permanent physical impairment incurs a subsequent  
36 permanent impairment from injury or occupational disease arising  
37 out of, and in the course of, her or his employment which merges  
38 with the preexisting permanent physical impairment to cause  
39 permanent total disability, the employer shall, in the first  
40 instance, pay all benefits provided by this chapter; but,  
41 subject to the limitations specified in subsection (6), such  
42 employer shall be reimbursed from the Special Disability Trust  
43 Fund ~~created by subsection (9)~~ for 50 percent of all  
44 compensation for permanent total disability.

45 (c) *Temporary compensation and medical benefits;*  
46 *aggravation or acceleration of preexisting condition or*  
47 *circumstantial causation.*—If an employee who has a preexisting  
48 permanent physical impairment experiences an aggravation or  
49 acceleration of the preexisting permanent physical impairment as  
50 a result of an injury or occupational disease arising out of and  
51 in the course of her or his employment, or suffers an injury as  
52 a result of a merger as defined in paragraph (2)(c), the  
53 employer shall provide all benefits provided by this chapter,  
54 but, subject to the limitations specified in subsection (7), the  
55 employer shall be reimbursed by the Special Disability Trust  
56 Fund ~~created by subsection (9)~~ for 50 percent of its payments  
57 for temporary, medical, and attendant care benefits.

58 (5) WHEN DEATH RESULTS.—If death results from the

20-01209-12

20121796

59 subsequent permanent impairment contemplated in subsection (4)  
60 within 1 year after the subsequent injury, or within 5 years  
61 after the subsequent injury when disability has been continuous  
62 since the subsequent injury, and it is determined that the death  
63 resulted from a merger, the employer shall, in the first  
64 instance, pay the funeral expenses and the death benefits  
65 prescribed by this chapter; but, subject to the limitations  
66 specified in subsection (6), she or he shall be reimbursed from  
67 the Special Disability Trust Fund ~~created by subsection (9)~~ for  
68 the last 50 percent of all compensation allowable and paid for  
69 such death and for 50 percent of the amount paid as funeral  
70 expenses.

71 (7) REIMBURSEMENT OF EMPLOYER.—

72 (c) A proof of claim must be filed on each notice of claim  
73 on file as of June 30, 1997, within 1 year after July 1, 1997,  
74 or the right to reimbursement of the claim shall be barred. A  
75 notice of claim on file on or before June 30, 1997, may be  
76 withdrawn and refiled if, at the time refiled, the notice of  
77 claim remains within the limitation period specified in  
78 paragraph (a). Such refiled shall not toll, extend, or  
79 otherwise alter in any way the limitation period applicable to  
80 the withdrawn and subsequently refiled notice of claim. Each  
81 proof of claim filed shall be accompanied by a proof-of-claim  
82 fee as provided in paragraph (8) (d) ~~(9) (d)~~. The Special  
83 Disability Trust Fund shall, within 120 days after receipt of  
84 the proof of claim, serve notice of the acceptance of the claim  
85 for reimbursement. This paragraph shall apply to all claims  
86 notwithstanding the provisions of subsection (11) ~~(12)~~.

87 (d) Each notice of claim filed or refiled on or after July

20-01209-12

20121796

88 1, 1997, must be accompanied by a notification fee as provided  
89 in paragraph (8) (d) ~~(9) (d)~~. A proof of claim must be filed  
90 within 1 year after the date the notice of claim is filed or  
91 refiled, accompanied by a proof-of-claim fee as provided in  
92 paragraph (8) (d) ~~(9) (d)~~, or the claim shall be barred. The  
93 notification fee shall be waived if both the notice of claim and  
94 proof of claim are submitted together as a single filing. The  
95 Special Disability Trust Fund shall, within 180 days after  
96 receipt of the proof of claim, serve notice of the acceptance of  
97 the claim for reimbursement. This paragraph shall apply to all  
98 claims notwithstanding the provisions of subsection (11) ~~(12)~~.

99 ~~(8) PREFERRED WORKER PROGRAM.—The Department of Education  
100 or administrator shall issue identity cards to preferred workers  
101 upon request by qualified employees and the Department of  
102 Financial Services shall reimburse an employer, from the Special  
103 Disability Trust Fund, for the cost of workers' compensation  
104 premium related to the preferred workers payroll for up to 3  
105 years of continuous employment upon satisfactory evidence of  
106 placement and issuance of payroll and classification records and  
107 upon the employee's certification of employment. The Department  
108 of Financial Services and the Department of Education may by  
109 rule prescribe definitions, forms, and procedures for the  
110 administration of the preferred worker program. The Department  
111 of Education may by rule prescribe the schedule for submission  
112 of forms for participation in the program.~~

113 (10) ~~(11)~~ EFFECTIVE DATES.—This section does not apply to  
114 any case in which the accident causing the subsequent injury or  
115 death or the disablement or death from a subsequent occupational  
116 disease occurred prior to July 1, 1955, or on or after January

20-01209-12

20121796

117 1, 1998. In no event shall the Special Disability Trust Fund be  
118 liable for, or reimburse employers or carriers for, any case in  
119 which the accident causing the subsequent injury or death or the  
120 disablement or death from a subsequent occupational disease  
121 occurred on or after January 1, 1998. The Special Disability  
122 Trust Fund shall continue to reimburse employers or carriers for  
123 subsequent injuries occurring prior to January 1, 1998, and the  
124 department shall continue to assess for and the department or  
125 administrator shall fund reimbursements as provided in  
126 subsection (8) ~~(9)~~ for this purpose.

127 Section 2. Paragraph (b) of subsection (1) of section  
128 440.50, Florida Statutes, is amended to read:

129 440.50 Workers' Compensation Administration Trust Fund.—

130 (1)

131 (b) The department is authorized to transfer as a loan an  
132 amount not in excess of \$250,000 from such special fund to the  
133 Special Disability Trust Fund established by s. 440.49(8)  
134 ~~440.49(9)~~, which amount shall be repaid to said special fund in  
135 annual payments equal to not less than 10 percent of moneys  
136 received for such Special Disability Trust Fund.

137 Section 3. Subsection (2) of section 624.4626, Florida  
138 Statutes, is amended to read:

139 624.4626 Electric cooperative self-insurance fund.—

140 (2) A self-insurance fund that meets the requirements of  
141 this section is subject to the assessments set forth in ss.  
142 440.49(8) ~~440.49(9)~~, 440.51(1), and 624.4621(7), but is not  
143 subject to any other provision of s. 624.4621 and is not  
144 required to file any report with the department under s.  
145 440.38(2)(b) which is uniquely required of group self-insurer

20-01209-12

20121796\_\_

146 funds qualified under s. 624.4621.

147 Section 4. This act shall take effect July 1, 2012.