

HB 4149

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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:

10
 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

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

29 reimbursed from the Special Disability Trust Fund ~~created by~~
 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

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57 | for temporary, medical, and attendant care benefits.

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

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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
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
 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

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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
146 | funds qualified under s. 624.4621.

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