

Amendment No.

CHAMBER ACTION

Senate

House

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The Conference Committee on CS/HB 5203 offered the following:

Conference Committee Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Effective June 30, 2013, section 1010.87, Florida Statutes, is repealed.

Section 2. (1) The Workers' Compensation Administration Trust Fund, FLAIR number 48-2-795, within the Department of Education is terminated.

(2) The balance remaining in, and all revenues of, the trust fund shall be transferred to the Workers' Compensation Administration Trust Fund within the Department of Financial Services.

(3) The Division of Vocational Rehabilitation within the Department of Education shall pay any outstanding debts or obligations of the terminated trust fund as soon as practicable,

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17 and the Chief Financial Officer shall close out and remove the
18 terminated trust fund from the various state accounting systems
19 using generally accepted accounting principles concerning
20 warrants outstanding, assets, and liabilities.

21 Section 3. Section 440.015, Florida Statutes, is amended
22 to read:

23 440.015 Legislative intent.—It is the intent of the
24 Legislature that the Workers' Compensation Law be interpreted so
25 as to assure the quick and efficient delivery of disability and
26 medical benefits to an injured worker and to facilitate the
27 worker's return to gainful reemployment at a reasonable cost to
28 the employer. It is the specific intent of the Legislature that
29 workers' compensation cases shall be decided on their merits.
30 The workers' compensation system in Florida is based on a mutual
31 renunciation of common-law rights and defenses by employers and
32 employees alike. In addition, it is the intent of the
33 Legislature that the facts in a workers' compensation case are
34 not to be interpreted liberally in favor of either the rights of
35 the injured worker or the rights of the employer. Additionally,
36 the Legislature hereby declares that disputes concerning the
37 facts in workers' compensation cases are not to be given a broad
38 liberal construction in favor of the employee on the one hand or
39 of the employer on the other hand, and the laws pertaining to
40 workers' compensation are to be construed in accordance with the
41 basic principles of statutory construction and not liberally in
42 favor of either employee or employer. It is the intent of the
43 Legislature to ensure the prompt delivery of benefits to the
44 injured worker. Therefore, an efficient and self-executing

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45 system must be created which is not an economic or
46 administrative burden. The department, agency, the Office of
47 Insurance Regulation, ~~the Department of Education,~~ and the
48 Division of Administrative Hearings shall administer the
49 Workers' Compensation Law in a manner which facilitates the
50 self-execution of the system and the process of ensuring a
51 prompt and cost-effective delivery of payments.

52 Section 4. Section 440.125, Florida Statutes, is amended
53 to read:

54 440.125 Medical records and reports; identifying
55 information in employee medical bills; confidentiality.—Any
56 medical records and medical reports of an injured employee and
57 any information identifying an injured employee in medical bills
58 which are provided to the department, pursuant to s. 440.13, are
59 confidential and exempt from the provisions of s. 119.07(1) and
60 s. 24(a), Art. I of the State Constitution, except as otherwise
61 provided by this chapter. The department may share any such
62 confidential and exempt records, reports, or information
63 received pursuant to s. 440.13 with the Agency for Health Care
64 Administration ~~and the Department of Education~~ in furtherance of
65 their official duties under ss. 440.13 and 440.134. The agency
66 and the department shall maintain the confidential and exempt
67 status of such records, reports, and information received.

68 Section 5. Subsections (2), (3), (4), and (5) of section
69 440.44, Florida Statutes, are amended to read:

70 440.44 Workers' compensation; staff organization.—

71 (2) INTENT.—It is the intent of the Legislature that the
72 department, the agency, ~~the Department of Education,~~ and the
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73 Division of Administrative Hearings assume an active and
74 forceful role in its administration of this act, so as to ensure
75 that the system operates efficiently and with maximum benefit to
76 both employers and employees.

77 (3) EXPENDITURES.—The department, the agency, the office,
78 ~~the Department of Education,~~ and the director of the Division of
79 Administrative Hearings shall make such expenditures, including
80 expenditures for personal services and rent at the seat of
81 government and elsewhere, for law books; for telephone services
82 and WATS lines; for books of reference, periodicals, equipment,
83 and supplies; and for printing and binding as may be necessary
84 in the administration of this chapter. All expenditures in the
85 administration of this chapter shall be allowed and paid as
86 provided in s. 440.50 upon the presentation of itemized vouchers
87 therefor approved by the department, the agency, the office, ~~the~~
88 ~~Department of Education,~~ or the director of the Division of
89 Administrative Hearings.

90 (4) PERSONNEL ADMINISTRATION.—Subject to the other
91 provisions of this chapter, the department, the agency, the
92 office, ~~the Department of Education,~~ and the Division of
93 Administrative Hearings may appoint, and prescribe the duties
94 and powers of, bureau chiefs, attorneys, accountants, medical
95 advisers, technical assistants, inspectors, claims examiners,
96 and such other employees as may be necessary in the performance
97 of their duties under this chapter.

98 (5) OFFICE.—The department, the agency, ~~the Department of~~
99 ~~Education,~~ and the Deputy Chief Judge shall maintain and keep
100 open during reasonable business hours an office, which shall be
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101 provided in the Capitol or some other suitable building in the
102 City of Tallahassee, for the transaction of business under this
103 chapter, at which office the official records and papers shall
104 be kept. The office shall be furnished and equipped. The
105 department, the agency, any judge of compensation claims, or the
106 Deputy Chief Judge may hold sessions and conduct hearings at any
107 place within the state. The Office of the Judges of Compensation
108 Claims shall maintain the 17 district offices, 31 judges of
109 compensation claims, and 31 mediators as they exist on June 30,
110 2001.

111 Section 6. Subsection (1) of section 440.491, Florida
112 Statutes, is amended, and subsection (8) is added to that
113 section, to read:

114 440.491 Reemployment of injured workers; rehabilitation.-

115 (1) DEFINITIONS.—As used in this section, the term:

116 (a) "Carrier" means group self-insurance funds or
117 individual self-insureds authorized under this chapter and
118 commercial funds or insurance entities authorized to write
119 workers' compensation insurance under chapter 624.

120 ~~(b) "Department" means the Department of Education.~~

121 (b) ~~(e)~~ "Medical care coordination" includes, but is not
122 limited to, coordinating physical rehabilitation services such
123 as medical, psychiatric, or therapeutic treatment for the
124 injured employee, providing health training to the employee and
125 family, and monitoring the employee's recovery. The purposes of
126 medical care coordination are to minimize the disability and
127 recovery period without jeopardizing medical stability, to
128 assure that proper medical treatment and other restorative

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129 services are timely provided in a logical sequence, and to
130 contain medical costs.

131 ~~(c)~~ (d) " Rehabilitation provider" means a rehabilitation
132 nurse, rehabilitation counselor, or vocational evaluator
133 providing reemployment assessments, medical care coordination,
134 reemployment services, or vocational evaluations under this
135 section, possessing one or more of the following nationally
136 recognized rehabilitation provider credentials:

137 1. Certified Rehabilitation Registered Nurse, C.R.R.N.,
138 certified by the Association of Rehab Professionals.

139 2. Certified Rehabilitation Counselor, C.R.C., certified
140 by the Commission of Rehabilitation Counselor Certifications.

141 3. Certified Case Manager, C.C.M., certified by the
142 Commission for Case Management Certification.

143 4. Certified Disability Management Specialist, C.D.M.S.,
144 certified by the Certified Disability Management Specialist
145 Commission.

146 5. Certified Vocational Evaluator, C.V.E., certified by
147 the Commission of Rehabilitation Counselor Certification.

148 6. Certified Occupational Health Nurse, C.O.H.N.,
149 certified by the American Board of Occupational Health Nurses.

150 ~~(d)~~ (e) "Reemployment assessment" means a written
151 assessment performed by a rehabilitation provider which provides
152 a comprehensive review of the medical diagnosis, treatment, and
153 prognosis; includes conferences with the employer, physician,
154 and claimant; and recommends a cost-effective physical and
155 vocational rehabilitation plan to assist the employee in
156 returning to suitable gainful employment.

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157 ~~(e)-(f)~~ "Reemployment services" means services that
158 include, but are not limited to, vocational counseling, job-
159 seeking skills training, ergonomic job analysis, transferable
160 skills analysis, selective job placement, labor market surveys,
161 and arranging other services such as education or training,
162 vocational and on-the-job, which may be needed by the employee
163 to secure suitable gainful employment.

164 ~~(f)-(g)~~ "Reemployment status review" means a review to
165 determine whether an injured employee is at risk of not
166 returning to work.

167 ~~(g)-(h)~~ "Suitable gainful employment" means employment or
168 self-employment that is reasonably attainable in light of the
169 employee's age, education, work history, transferable skills,
170 previous occupation, and injury, and which offers an opportunity
171 to restore the individual as soon as practicable and as nearly
172 as possible to his or her average weekly earnings at the time of
173 injury.

174 ~~(h)-(i)~~ "Vocational evaluation" means a review of the
175 employee's physical and intellectual capabilities, his or her
176 aptitudes and achievements, and his or her work-related
177 behaviors to identify the most cost-effective means toward the
178 employee's return to suitable gainful employment.

179 (8) DEPARTMENT CONTRACTS.-The department may contract with
180 one or more third parties including, but not limited to,
181 rehabilitation providers, to administer training and education
182 screenings, reemployment assessments, vocational evaluations,
183 and reemployment services authorized under this section. Any
184 person or firm selected by the department may not have a

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185 conflict of interest that might affect its ability to
186 independently perform its responsibilities with respect to
187 administering the provisions of this subsection. A
188 rehabilitation provider who contracts with the department to
189 provide screenings or evaluations may not provide training or
190 education to the injured employee.

191 Section 7. Subsection (5) of section 440.50, Florida
192 Statutes, is amended to read:

193 440.50 Workers' Compensation Administration Trust Fund.—

194 (5) Funds appropriated by an operating appropriation or a
195 nonoperating transfer from the Workers' Compensation
196 Administration Trust Fund to ~~the Department of Education,~~ the
197 Agency for Health Care Administration, the Department of
198 Business and Professional Regulation, the Department of
199 Management Services, the First District Court of Appeal, and the
200 Justice Administrative Commission remaining unencumbered as of
201 June 30 or undisbursed as of September 30 each year shall revert
202 to the Workers' Compensation Administration Trust Fund.

203 Section 8. Section 440.591, Florida Statutes, is amended
204 to read:

205 440.591 Administrative procedure; rulemaking authority.—

206 The department, the Financial Services Commission, and the
207 agency, ~~and the Department of Education~~ may adopt rules pursuant
208 to ss. 120.536(1) and 120.54 to implement the provisions of this
209 chapter conferring duties upon them.

210 Section 9. The sum of \$350,000 in recurring funds from the
211 Workers' Compensation Administration Trust Fund and five full-
212 time equivalent positions and associated salary rate of 260,000

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213 are appropriated to the Department of Financial Services for the
214 2012-2013 fiscal year to implement the provisions of this act.

215 Section 10. Except as otherwise expressly provided in this
216 act, this act shall take effect July 1, 2012.

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218
219 **T I T L E A M E N D M E N T**

220 Remove the entire title and insert:

221 A bill to be entitled

222 An act relating to reemployment services; repealing s.
223 1010.87, F.S., relating to the Workers' Compensation
224 Administration Trust Fund within the Department of
225 Education; terminating the trust fund and transferring
226 the balance remaining in, and all revenues of, the
227 terminated fund; requiring the Division of Vocational
228 Rehabilitation within the Department of Education to
229 pay any outstanding debts or obligations of the
230 terminated fund; amending s. 440.015, F.S.; revising
231 legislative intent to remove the Department of
232 Education's duty to administer the Workers'
233 Compensation Law; amending s. 440.125, F.S.; removing
234 the authorization of the Department of Financial
235 Services to share confidential and exempt records,
236 reports, or information with the Department of
237 Education; amending s. 440.44, F.S.; revising
238 legislative intent; deleting certain powers and duties
239 of the Department of Education relating to workers'
240 compensation; amending s. 440.491, F.S., relating to

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241 reemployment of injured workers and rehabilitation;
242 removing the definition of the term "department";
243 authorizing the Department of Financial Services to
244 contract with third parties to administer training and
245 education screenings, reemployment assessments,
246 vocational evaluations, and reemployment services;
247 providing requirements of the third parties; amending
248 s. 440.50, F.S.; deleting a reference to conform;
249 amending s. 440.591, F.S.; removing rulemaking
250 authority of the Department of Education with respect
251 to the Workers' Compensation Law; providing an
252 appropriation and authorizing additional positions for
253 the Department of Financial Services; providing
254 effective dates.