

## ENROLLED

CS/HB 5203, Engrossed 1

2012 Legislature

1  
2 An act relating to reemployment services; repealing s.  
3 1010.87, F.S., relating to the Workers' Compensation  
4 Administration Trust Fund within the Department of  
5 Education; terminating the trust fund and transferring  
6 the balance remaining in, and all revenues of, the  
7 terminated fund; requiring the Division of Vocational  
8 Rehabilitation within the Department of Education to  
9 pay any outstanding debts or obligations of the  
10 terminated fund; amending s. 440.015, F.S.; revising  
11 legislative intent to remove the Department of  
12 Education's duty to administer the Workers'  
13 Compensation Law; amending s. 440.125, F.S.; removing  
14 the authorization of the Department of Financial  
15 Services to share confidential and exempt records,  
16 reports, or information with the Department of  
17 Education; amending s. 440.44, F.S.; revising  
18 legislative intent; deleting certain powers and duties  
19 of the Department of Education relating to workers'  
20 compensation; amending s. 440.491, F.S., relating to  
21 reemployment of injured workers and rehabilitation;  
22 removing the definition of the term "department";  
23 authorizing the Department of Financial Services to  
24 contract with third parties to administer training and  
25 education screenings, reemployment assessments,  
26 vocational evaluations, and reemployment services;  
27 providing requirements of the third parties; amending  
28 s. 440.50, F.S.; deleting a reference to conform;

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29 | amending s. 440.591, F.S.; removing rulemaking  
30 | authority of the Department of Education with respect  
31 | to the Workers' Compensation Law; providing an  
32 | appropriation and authorizing additional positions for  
33 | the Department of Financial Services; providing  
34 | effective dates.

35 |  
36 | Be It Enacted by the Legislature of the State of Florida:

37 |  
38 | Section 1. Effective June 30, 2013, section 1010.87,  
39 | Florida Statutes, is repealed.

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

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

47 | (3) The Division of Vocational Rehabilitation within the  
48 | Department of Education shall pay any outstanding debts or  
49 | obligations of the terminated trust fund as soon as practicable,  
50 | and the Chief Financial Officer shall close out and remove the  
51 | terminated trust fund from the various state accounting systems  
52 | using generally accepted accounting principles concerning  
53 | warrants outstanding, assets, and liabilities.

54 | Section 3. Section 440.015, Florida Statutes, is amended  
55 | to read:

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56           440.015 Legislative intent.—It is the intent of the  
57 Legislature that the Workers' Compensation Law be interpreted so  
58 as to assure the quick and efficient delivery of disability and  
59 medical benefits to an injured worker and to facilitate the  
60 worker's return to gainful reemployment at a reasonable cost to  
61 the employer. It is the specific intent of the Legislature that  
62 workers' compensation cases shall be decided on their merits.  
63 The workers' compensation system in Florida is based on a mutual  
64 renunciation of common-law rights and defenses by employers and  
65 employees alike. In addition, it is the intent of the  
66 Legislature that the facts in a workers' compensation case are  
67 not to be interpreted liberally in favor of either the rights of  
68 the injured worker or the rights of the employer. Additionally,  
69 the Legislature hereby declares that disputes concerning the  
70 facts in workers' compensation cases are not to be given a broad  
71 liberal construction in favor of the employee on the one hand or  
72 of the employer on the other hand, and the laws pertaining to  
73 workers' compensation are to be construed in accordance with the  
74 basic principles of statutory construction and not liberally in  
75 favor of either employee or employer. It is the intent of the  
76 Legislature to ensure the prompt delivery of benefits to the  
77 injured worker. Therefore, an efficient and self-executing  
78 system must be created which is not an economic or  
79 administrative burden. The department, agency, the Office of  
80 Insurance Regulation, ~~the Department of Education,~~ and the  
81 Division of Administrative Hearings shall administer the  
82 Workers' Compensation Law in a manner which facilitates the

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83 self-execution of the system and the process of ensuring a  
84 prompt and cost-effective delivery of payments.

85 Section 4. Section 440.125, Florida Statutes, is amended  
86 to read:

87 440.125 Medical records and reports; identifying  
88 information in employee medical bills; confidentiality.—Any  
89 medical records and medical reports of an injured employee and  
90 any information identifying an injured employee in medical bills  
91 which are provided to the department, pursuant to s. 440.13, are  
92 confidential and exempt from the provisions of s. 119.07(1) and  
93 s. 24(a), Art. I of the State Constitution, except as otherwise  
94 provided by this chapter. The department may share any such  
95 confidential and exempt records, reports, or information  
96 received pursuant to s. 440.13 with the Agency for Health Care  
97 Administration ~~and the Department of Education~~ in furtherance of  
98 their official duties under ss. 440.13 and 440.134. The agency  
99 and the department shall maintain the confidential and exempt  
100 status of such records, reports, and information received.

101 Section 5. Subsections (2), (3), (4), and (5) of section  
102 440.44, Florida Statutes, are amended to read:

103 440.44 Workers' compensation; staff organization.—

104 (2) INTENT.—It is the intent of the Legislature that the  
105 department, the agency, ~~the Department of Education,~~ and the  
106 Division of Administrative Hearings assume an active and  
107 forceful role in its administration of this act, so as to ensure  
108 that the system operates efficiently and with maximum benefit to  
109 both employers and employees.

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110 (3) EXPENDITURES.—The department, the agency, the office,  
 111 ~~the Department of Education,~~ and the director of the Division of  
 112 Administrative Hearings shall make such expenditures, including  
 113 expenditures for personal services and rent at the seat of  
 114 government and elsewhere, for law books; for telephone services  
 115 and WATS lines; for books of reference, periodicals, equipment,  
 116 and supplies; and for printing and binding as may be necessary  
 117 in the administration of this chapter. All expenditures in the  
 118 administration of this chapter shall be allowed and paid as  
 119 provided in s. 440.50 upon the presentation of itemized vouchers  
 120 therefor approved by the department, the agency, the office, ~~the~~  
 121 ~~Department of Education,~~ or the director of the Division of  
 122 Administrative Hearings.

123 (4) PERSONNEL ADMINISTRATION.—Subject to the other  
 124 provisions of this chapter, the department, the agency, the  
 125 office, ~~the Department of Education,~~ and the Division of  
 126 Administrative Hearings may appoint, and prescribe the duties  
 127 and powers of, bureau chiefs, attorneys, accountants, medical  
 128 advisers, technical assistants, inspectors, claims examiners,  
 129 and such other employees as may be necessary in the performance  
 130 of their duties under this chapter.

131 (5) OFFICE.—The department, the agency, ~~the Department of~~  
 132 ~~Education,~~ and the Deputy Chief Judge shall maintain and keep  
 133 open during reasonable business hours an office, which shall be  
 134 provided in the Capitol or some other suitable building in the  
 135 City of Tallahassee, for the transaction of business under this  
 136 chapter, at which office the official records and papers shall  
 137 be kept. The office shall be furnished and equipped. The

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138 department, the agency, any judge of compensation claims, or the  
 139 Deputy Chief Judge may hold sessions and conduct hearings at any  
 140 place within the state. The Office of the Judges of Compensation  
 141 Claims shall maintain the 17 district offices, 31 judges of  
 142 compensation claims, and 31 mediators as they exist on June 30,  
 143 2001.

144 Section 6. Subsection (1) of section 440.491, Florida  
 145 Statutes, is amended, and subsection (8) is added to that  
 146 section, to read:

147 440.491 Reemployment of injured workers; rehabilitation.-

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

149 (a) "Carrier" means group self-insurance funds or  
 150 individual self-insureds authorized under this chapter and  
 151 commercial funds or insurance entities authorized to write  
 152 workers' compensation insurance under chapter 624.

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

154 (b) ~~(e)~~ "Medical care coordination" includes, but is not  
 155 limited to, coordinating physical rehabilitation services such  
 156 as medical, psychiatric, or therapeutic treatment for the  
 157 injured employee, providing health training to the employee and  
 158 family, and monitoring the employee's recovery. The purposes of  
 159 medical care coordination are to minimize the disability and  
 160 recovery period without jeopardizing medical stability, to  
 161 assure that proper medical treatment and other restorative  
 162 services are timely provided in a logical sequence, and to  
 163 contain medical costs.

164 (c) ~~(d)~~ " Rehabilitation provider" means a rehabilitation  
 165 nurse, rehabilitation counselor, or vocational evaluator

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166 providing reemployment assessments, medical care coordination,  
167 reemployment services, or vocational evaluations under this  
168 section, possessing one or more of the following nationally  
169 recognized rehabilitation provider credentials:

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

172 2. Certified Rehabilitation Counselor, C.R.C., certified  
173 by the Commission of Rehabilitation Counselor Certifications.

174 3. Certified Case Manager, C.C.M., certified by the  
175 Commission for Case Management Certification.

176 4. Certified Disability Management Specialist, C.D.M.S.,  
177 certified by the Certified Disability Management Specialist  
178 Commission.

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

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

183 (d)~~(e)~~ "Reemployment assessment" means a written  
184 assessment performed by a rehabilitation provider which provides  
185 a comprehensive review of the medical diagnosis, treatment, and  
186 prognosis; includes conferences with the employer, physician,  
187 and claimant; and recommends a cost-effective physical and  
188 vocational rehabilitation plan to assist the employee in  
189 returning to suitable gainful employment.

190 (e)~~(f)~~ "Reemployment services" means services that  
191 include, but are not limited to, vocational counseling, job-  
192 seeking skills training, ergonomic job analysis, transferable  
193 skills analysis, selective job placement, labor market surveys,

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194 and arranging other services such as education or training,  
 195 vocational and on-the-job, which may be needed by the employee  
 196 to secure suitable gainful employment.

197 ~~(f)(g)~~ "Reemployment status review" means a review to  
 198 determine whether an injured employee is at risk of not  
 199 returning to work.

200 ~~(g)(h)~~ "Suitable gainful employment" means employment or  
 201 self-employment that is reasonably attainable in light of the  
 202 employee's age, education, work history, transferable skills,  
 203 previous occupation, and injury, and which offers an opportunity  
 204 to restore the individual as soon as practicable and as nearly  
 205 as possible to his or her average weekly earnings at the time of  
 206 injury.

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

212 (8) DEPARTMENT CONTRACTS.—The department may contract with  
 213 one or more third parties including, but not limited to,  
 214 rehabilitation providers, to administer training and education  
 215 screenings, reemployment assessments, vocational evaluations,  
 216 and reemployment services authorized under this section. Any  
 217 person or firm selected by the department may not have a  
 218 conflict of interest that might affect its ability to  
 219 independently perform its responsibilities with respect to  
 220 administering the provisions of this subsection. A  
 221 rehabilitation provider who contracts with the department to

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222 provide screenings or evaluations may not provide training or  
 223 education to the injured employee.

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

226 440.50 Workers' Compensation Administration Trust Fund.—

227 (5) Funds appropriated by an operating appropriation or a  
 228 nonoperating transfer from the Workers' Compensation  
 229 Administration Trust Fund to ~~the Department of Education,~~ the  
 230 Agency for Health Care Administration, the Department of  
 231 Business and Professional Regulation, the Department of  
 232 Management Services, the First District Court of Appeal, and the  
 233 Justice Administrative Commission remaining unencumbered as of  
 234 June 30 or undisbursed as of September 30 each year shall revert  
 235 to the Workers' Compensation Administration Trust Fund.

236 Section 8. Section 440.591, Florida Statutes, is amended  
 237 to read:

238 440.591 Administrative procedure; rulemaking authority.—

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

243 Section 9. The sum of \$350,000 in recurring funds from the  
 244 Workers' Compensation Administration Trust Fund and five full-  
 245 time equivalent positions and associated salary rate of 260,000  
 246 are appropriated to the Department of Financial Services for the  
 247 2012-2013 fiscal year to implement the provisions of this act.

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