



RULEMAKING & REGULATION SUBCOMMITTEE MEETING

Friday, February 3, 2012

9:00 A.M. – 10:00 A.M.

306 House Office Building

MEETING PACKET

Dean Cannon
Speaker

Chris Dorworth
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Rulemaking & Regulation Subcommittee

Start Date and Time: Friday, February 03, 2012 09:00 am
End Date and Time: Friday, February 03, 2012 10:00 am
Location: 306 HOB
Duration: 1.00 hrs

Consideration of the following bill(s):

HB 347 College Credit for Military Training and Education Courses by Harrell
CS/HB 355 Public Meetings by Government Operations Subcommittee, Kiar
CS/HB 529 Adult Day Care Centers by Health & Human Services Access Subcommittee, Corcoran
CS/HB 643 Title Insurance by Insurance & Banking Subcommittee, Moraitis
CS/HB 1191 Parent Empowerment in Education by K-20 Innovation Subcommittee, Bileca
CS/HB 1261 State Employment by Government Operations Subcommittee, Mayfield



FLORIDA HOUSE OF REPRESENTATIVES

Dean Cannon, Speaker

Rules & Calendar Committee Rulemaking & Regulation Subcommittee

Chris Dorworth
Chair

317 The Capitol
(850) 488-0608

AGENDA

Friday, February 3, 2012

9:00 A.M. – 10:00 A.M.

Room 306 House Office Building

Opening Remarks by Chair Dorworth

Roll Call by Sonja Thompson, CAA

Consideration of the following bill(s):

- HB 347 College Credit for Military Training and Education Courses by Harrell
- CS/HB 355 Public Meetings by Government Operations Subcommittee, Kiar
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- CS/HB 1261 State Employment by Government Operations Subcommittee, Mayfield

Closing Remarks

Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 347 College Credit for Military Training and Education Courses

SPONSOR(S): Harrell and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 532

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	11 Y, 0 N	Thomas	Sherry
2) Rulemaking & Regulation Subcommittee		Miller <i>E.H.M.</i>	Rubottom <i>R.D.R.</i>
3) Higher Education Appropriations Subcommittee			
4) Education Committee			

SUMMARY ANALYSIS

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules that enable eligible members of the United States Armed Forces to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military.

The bill requires that the regulations and rules include procedures for credential evaluation and the award of academic college credit, including but not limited to, equivalency and alignment of military course work with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, the Board of Governors and State Board of Education are not required to adopt regulations or rules to enable United States Armed Forces servicemembers to earn college credit for college-level training and education acquired in the military. However, all public postsecondary institutions have established procedures to evaluate how military training and experience may be awarded for equivalent college credit. Florida's public postsecondary institutions consult with the American Council on Education (ACE) and Servicemembers Opportunity Colleges (SOC) when evaluating and awarding academic credit for military training and experience.¹

American Council on Education (ACE)

Since 1945, the American Council on Education (ACE) has provided a collaborative link between the U.S. Department of Defense and higher education through the review of military training and experiences for the award of equivalent college credits for members of the U.S. Armed Forces.² ACE has established a rigid process in evaluating military services courses to determine the appropriate amount and level of academic credit that should be awarded by postsecondary institutions. ACE maintains the *Guide to the Evaluation of Educational Experiences in the Armed Services* which has been the standard reference for recognizing learning acquired in the military. ACE provides guidance to servicemembers, civilians, military education centers, and colleges and universities interpreting military transcripts and documents.³

More than 2,300 colleges and universities recognize these ACE endorsed transcripts as official documentation of military experience and accurate records of applicable ACE credit recommendations.⁴

According to the Board of Governors, institutions consult with and follow the ACE Military Guide Online⁵ to determine how military training and experience might be awarded for equivalent course credit. Military courses that are recommended by the ACE Military Guide for college credit would be considered first to determine if they meet degree requirements, and second to determine if they can fulfill any electives. Some types of military training, such as the Advanced Helicopter Pilot Training 1 course, may not be accepted at a state university because there is no equivalent course and it is more vocational in nature than academic credit.⁶

Each branch of service provides transcripts for current and former servicemembers as an official record of military education, training, and experience. Postsecondary institutions using the ACE Military Guide evaluate an individual's military transcript according to the ACE standard for recommended college credit. The following is a breakdown of the service-specific transcripts available to current and former servicemembers:

- **U.S. Army:** Army/American Council on Education Registry Transcript System (AARTS)
- **U.S. Navy/U.S. Marine Corps:** Sailor/Marine American Council on Education Registry Transcript (SMART)

¹ Board of Governors, *Legislative Bill Analysis for HB 347* (2011), Department of Education, *Legislative Bill Analysis for SB 532* (2011).

² American Council on Education, *ACE Military Programs*, available at http://www.acenet.edu/AM/Template.cfm?Section=Military_Programs (last visited Dec. 8, 2011).

³ *Id.*

⁴ *Id.*

⁵ American Council on Education, *ACE Military Guide Online*, available at <http://militaryguides.acenet.edu>, (last visited Jan. 19, 2012).

⁶ Board of Governors, *Legislative Bill Analysis for HB 347* (2011).

- **U.S Air Force:** Community College of the Air Force (CCAF)
- **U.S. Coast Guard:** U.S. Coast Guard Institute (CGI)⁷

Servicemembers Opportunity Colleges (SOC)

The organization known as Servicemembers Opportunity Colleges (SOC) was created in 1972 to provide educational opportunities to servicemembers who, because they frequently moved from place to place, had trouble completing college degrees. SOC functions in cooperation with 15 higher education associations, the Department of Defense, and Active and Reserve Components of the Military Services to expand and improve voluntary postsecondary education opportunities for servicemembers worldwide.⁸ SOC supports a consortium of approximately 1,900 colleges and universities that have pledged to support the higher education needs of military personnel. SOC works with civilian and military educators to overcome obstacles associated with obtaining a college education when pursued through traditional means.

Among the SOC Consortium key goals is the award of credit for military training and experience. All SOC Consortium institutions provide processes to determine credit awards and learning acquired for specialized military training and occupational experience when applicable to a servicemember's degree program. In doing so, SOC Consortium members recognize and use the ACE Military Guide to evaluate and award academic credit for military training and experience. Other key features of the SOC Consortium include:

- Reasonable Transfer of Credit;
- Reduced Academic Residency; and
- Credit for Nationally-Recognized Testing Programs.⁹

Florida has high representation within the SOC Consortium in that 25 of the 28 Florida College System institutions and 9 of the 11 State University System institutions are members.¹⁰

Effect of Proposed Changes

Currently, each Florida public postsecondary institution evaluates college-level training and education for United States Armed Forces servicemembers on an individual basis, using American Council on Education (ACE) or Servicemembers Opportunity Colleges (SOC) as a guideline in determining the amount of college credit to award. By requiring the Board of Governors to adopt regulations and the State Board of Education to adopt rules, the bill may result in a more uniform approach to evaluating and awarding college credit across institutions.

The bill requires that the regulations and rules include procedures for credential evaluation and the award of academic college credit, including but not limited to, equivalency and alignment of military course work with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.

The bill provides an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.096, F.S., relating to college credit for military training and education courses – requiring the Board of Governors of the State University System and the State Board of Education to adopt regulations and rules, respectively, that enable United States Armed Forces servicemembers to earn college credit for college-level training and education acquired in the military.

Section 2. Provides an effective date of July 1, 2012.

⁷ American Council on Education, *A Transfer Guide: Understanding Your Military Transcript and ACE Credit Recommendations*, available at http://www.acenet.edu/Content/NavigationMenu/ProgramsServices/MilitaryPrograms/TransferGuide_Updated2011.pdf.

⁸ Services Opportunity Colleges, <http://www.soc.aascu.org> (last visited Dec. 8, 2011).

⁹ Services Opportunity Colleges, <http://www.soc.aascu.org/socconsortium/Default.html> (last visited Dec. 8, 2011).

¹⁰ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By requiring the Board of Governors to adopt regulations and the State Board of Education to adopt rules to enable United States Armed Forces servicemembers to earn college credit for college-level training and education, the bill could decrease the amount of time and cost for servicemembers to receive a postsecondary degree.

D. FISCAL COMMENTS:

According to the Board of Governors and the State Board of Education, the bill has no fiscal impact to the State University System or the Florida College System.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules that enable the United States Armed Forces servicemembers to earn college credit for college-level training and education acquired in the military.

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.¹¹ Rulemaking authority is delegated by the Legislature¹² through statute and authorizes an

¹¹ Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

¹² *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

agency to “adopt, develop, establish, or otherwise create”¹³ a rule. Agencies do not have discretion whether to engage in rulemaking.¹⁴ To adopt a rule an agency must have an express grant of authority to implement a specific law by rulemaking.¹⁵ The grant of rulemaking authority itself need not be detailed.¹⁶ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.¹⁷

The State Board of Education is authorized to adopt rules implementing its duties conferred by statute.¹⁸ The Board of Governors must follow the rulemaking requirements of the APA¹⁹ when adopting rules to implement powers conferred by statute.²⁰ The bill identifies specific issues required to be included in the rules to be adopted. This specificity appears to provide sufficient standards and guidelines for rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹³ Section 120.52(17), F.S.

¹⁴ Section 120.54(1)(a), F.S.

¹⁵ Section 120.52(8) & s. 120.536(1), F.S.

¹⁶ *Save the Manatee Club, Inc.*, supra at 599.

¹⁷ *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

¹⁸ Section 1001.02(1), F.S.

¹⁹ Section 120.54, F.S.

²⁰ Section 1001.706(2), F.S.

1 A bill to be entitled
 2 An act relating to college credit for military
 3 training and education courses; creating s. 1004.096,
 4 F.S.; requiring the Board of Governors of the State
 5 University System and the State Board of Education to
 6 adopt regulations and rules, respectively, that enable
 7 United States Armed Forces servicemembers to earn
 8 college credit for college-level training and
 9 education acquired in the military; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 1004.096, Florida Statutes, is created
 15 to read:

16 1004.096 College credit for military training and
 17 education courses.—The Board of Governors shall adopt
 18 regulations and the State Board of Education shall adopt rules
 19 that enable eligible members of the United States Armed Forces
 20 to earn academic college credit at public postsecondary
 21 educational institutions for college-level training and
 22 education acquired in the military. The regulations and rules
 23 shall include procedures for credential evaluation and the award
 24 of academic college credit, including, but not limited to,
 25 equivalency and alignment of military coursework with
 26 appropriate college courses, course descriptions, type and
 27 amount of college credit that may be awarded, and transfer of
 28 credit.

HB 347

2012

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Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 355 Public Meetings
SPONSOR(S): Kiar and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 206

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Rows include Government Operations Subcommittee, Rulemaking & Regulation Subcommittee, and State Affairs Committee.

SUMMARY ANALYSIS

The State Constitution and the Florida Statutes set forth the state's public policy regarding access to government meetings; however, both are silent concerning whether citizens have a right to be heard at a public meeting.

The bill requires members of the public to be given a reasonable opportunity to be heard on a proposition before a board or commission. However, the opportunity to be heard does not have to occur at the same meeting at which the board or commission takes official action if certain requirements are met.

The bill provides that the opportunity to be heard is subject to reasonable rules or policies adopted by the board or commission. It limits the scope of the rules and policies and requires each board or commission subject to the Administrative Procedure Act (APA) to adopt the rules under provisions in the APA.

Finally, if a board or commission adopts rules or policies in compliance with the law and follows the rules or policies when providing an opportunity for the public to speak, it is presumed that the board or commission is acting in compliance with the requirement that citizens be given the opportunity to be heard.

The bill could have a negative fiscal impact on state and local governments.

This bill may be a county or municipality mandate. See Section III.A.1. of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Constitution: Open Meetings

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

The Legislature is authorized by Article I, s. 24(c), to provide exemptions from the open records and open meeting requirements upon a 2/3 vote of both legislative chambers, in a bill that specifies the public necessity giving rise to the exemption.

Government in the Sunshine Law

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., also known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and be open to public inspection.⁴

Right to Speak at Meetings

The State Constitution and the Florida Statutes are silent concerning whether citizens have a right to be heard at a public meeting. To date, Florida courts have heard two cases concerning whether a member of the public has a right to be heard at a meeting when he or she is not a party to the proceedings.⁵

In *Keesler v. Community Maritime Park Associates, Inc.*,⁶ the plaintiffs sued the Community Maritime Park Associates, Inc., (CMPA) alleging that the CMPA violated the Sunshine Law by not providing the plaintiffs with the opportunity to speak at a meeting concerning the development of certain waterfront property. The plaintiffs argued that the phrase "open to the public" granted citizens the right to speak at public meetings. The First District Court of Appeal held:

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Florida courts have heard numerous cases regarding Sunshine Law violations; however, only two appear to be on point regarding the public's right to speak at a public meeting. Other cases have merely opined that the public has an inalienable right to be present and to be heard. The courts have opined that "boards should not be allowed, through devious methods, to 'deprive the public of this inalienable right to be present and to be heard at all deliberations wherein decisions affecting the public are being made.'" See, e.g., *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 699 (Fla. 1969) (specified boards and commissions . . . should not be allowed to deprive the public of this inalienable right to be present and to be heard at all deliberations wherein decisions affecting the public are being made); *Krause v. Reno*, (366 So.2d 1244, 1250 (Fla. 3rd DCA 1979) ("citizen input factor" is an important aspect of public meetings); *Homestead-Miami Speedway, LLC v. City of Miami*, 828 So.2d 411 (Fla. 3rd DCA 2002) (city did not violate Sunshine Law when there was public participation and debate in some but not all meetings regarding a proposed contract).

⁶ 32 So.3d 659 (Fla. 1st DCA 2010).

Relying on the language in *Marston*,⁷ the trial court determined that, although the Sunshine Law requires that meetings be open to the public, the law does not give the public the right to speak at the meetings. Appellants have failed to point to any case construing the phrase “open to the public” to grant the public the right to speak, and in light of the clear and unambiguous language in *Marston* (albeit dicta), we are not inclined to broadly construe the phrase as granting such a right here.⁸

The second case, *Kennedy v. St. Johns Water Management District*,⁹ was argued before the Fifth District Court of Appeal on October 13, 2011. At a meeting of the St. Johns Water Management District (District), the overflow crowd was put in other rooms and provided a video feed of the meeting. Additionally, the District limited participation in the meeting by members of a group called “The St. Johns Riverkeeper.” Only the St. Johns Riverkeeper representative and attorney were allowed to address the District board. Mr. Kennedy, who wanted to participate in the discussion, sued arguing that the Sunshine Law requires that citizens be given the opportunity to be heard. Mr. Kennedy also alleged that the District violated the Sunshine Law by failing to have a large enough facility to allow all who were interested in attending the meeting to be present in the meeting room. On October 25, 2011, the Fifth District Court of Appeal affirmed the trial court’s ruling that the District did not violate the Sunshine Law as alleged.

Effect of Bill

The bill creates a new section of law governing the opportunity for the public to be heard at public meetings of a board or commission. The bill does not define a board or commission for purposes of the new requirements. For example, the Sunshine Law provides that it applies to all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision.

The bill requires members of the public to be given a reasonable opportunity to be heard on a proposition before a board or commission. However, the opportunity to be heard does not have to occur at the same meeting at which the board or commission takes official action if the opportunity:

- Occurs at a meeting that meets the same notice requirements as the meeting at which the board or commission will take official action on the item;
- Occurs at a meeting that is during the decisionmaking process; and
- Is within reasonable proximity before the meeting at which the board or commission takes official action.

It is unclear what is meant by “reasonable proximity” because the term is not defined.

The opportunity to be heard is not required when a board or commission is considering:

- An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, when compliance with the requirements would cause an unreasonable delay in the ability of the board or commission to act;
- An official act involving no more than a ministerial act; or
- A meeting in which the board or commission is acting in a quasi-judicial capacity with respect to the rights or interests of a person, except as otherwise provided by law.

It is unclear what is considered an “unreasonable delay” when deciding if the public’s opportunity to be heard should be usurped.

⁷ In *Wood v Marston*, the Florida Supreme Court held that the University of Florida improperly closed meetings of a committee charged with soliciting and screening applicants for the deanship of the college of law. However, the *Marston* court noted “nothing in this decision gives the public the right to be more than spectators. The public has no authority to participate in or to interfere with the decision-making process.” *Wood v. Marston*, 442 So.2d 934, 941 (Fla. 1983).

⁸ *Keesler* at 660-661.

⁹ 2011 WL 5124949 (Fla. 5th DCA 2011).

The bill authorizes a board or commission to adopt reasonable rules or policies to ensure the orderly conduct of public meetings. Boards or commissions subject to the Administrative Procedure Act¹⁰ must adopt rules under ss. 120.536(1) and 120.54, F.S., governing the opportunity to be heard. The bill provides that rules or policies of a board or commission may:

- Limit the time that an individual has to address the board or commission;
- Require, at meetings in which a large number of individuals wish to be heard, that a representative of a group or faction on an item, rather than all of the members of the group or faction, address the board or commission; or
- Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard.

The bill provides that the opportunity to be heard is subject to reasonable rules or policies adopted by the board or commission to ensure the orderly conduct of a public meeting. However, the bill limits the scope of the rules and policies and requires each board or commission subject to the Administrative Procedure Act¹¹ to adopt the rules under ss. 120.536(1) and 120.54, F.S. Rules or policies adopted by the board or commission are limited to rules or policies that:

- Designate a specified period of time for public comment;
- Limit the time an individual has to address the board or commission;
- Require, at meetings in which a large number of individuals wish to be heard, that representatives of groups or factions on an item, rather than all of the members of the groups or factions, address the board or commission; or
- Prescribe procedures or forms for an individual to use in order to inform the board or commission of a desire to be heard, to indicate his or her support, opposition, or neutrality on a proposition, and to indicate his or her designation of a representative to speak for him or her or his or her group on a proposition if he or she so chooses.

Only boards or commissions subject to the Administrative Procedure Act are authorized to adopt the limited rules and policies. As a result, most local boards and commissions would not be authorized to adopt rules to implement the law.

Finally, if a board or commission adopts rules or policies in compliance with the law and follows the rules or policies when providing an opportunity for the public to speak, it is presumed that the board or commission is acting in compliance with the requirement that citizens be given the opportunity to be heard. A presumption in the law may be overcome. Some presumptions are overcome by the presentation of reliable evidence inconsistent with the fact presumed. Other presumptions are overcome by clear and convincing evidence. As the bill does not specify the meaning of the presumption, the courts would determine the force of the presumption. A true safe harbor principle would make it clear that if the conditions were met, that the actor meeting the conditions would be deemed in compliance as a matter of law.

B. SECTION DIRECTORY:

Section 1 creates s. 286.0114, F.S., providing that the public be provided with a reasonable opportunity to be heard at public meetings.

Section 2 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹⁰ See chapter 120, F.S.

¹¹ See chapter 120, F.S.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Governmental entities could incur additional meeting related expenses because longer and more frequent meetings could be required when considering items of great public interest. As a result, it is likely staff would have to be compensated, security would have to be provided, and other expenses related to the meeting and meeting facility would be incurred. The amount of those potential expenses is indeterminate and would vary depending on the magnitude of each issue and the specific associated meeting requirements.¹²

In addition, the uncertainties in the bill would generate numerous lawsuits over its meaning and application to particular situations. The cost of defending such suits would also be indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18 of the State Constitution may apply because this bill could cause counties and municipalities to incur additional expenses associated with longer meetings or increased meetings due to the new requirement that the public be provided with the opportunity to speak at such meetings; however, an exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. The exceptions to the mandates provision of Art. VII, s. 18, of the Florida Constitution appear to be inapplicable because the bill does not articulate a threshold finding of serving an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes a board or commission to adopt reasonable rules or policies to ensure the orderly conduct of public meetings. Boards or commissions subject to the Administrative Procedure Act (APA) must adopt rules under ss. 120.536(1) and 120.54, F.S., governing the opportunity to be heard. The bill provides guidelines regarding the rules or policies that may be adopted by a board or commission subject to the APA. Boards and commissions subject to the APA include state agencies, school boards

¹² According to the Commission on Ethics, "the only potential concern would be an increase in the length of the meetings and the possible need, and fiscal impact, of Commission members extending their stay in Tallahassee." Analysis of HB 355 (2012) by the Commission on Ethics (on file with the Government Operations Subcommittee).

and local boards and commissions having a jurisdiction extending beyond one county, as well as other entities that are expressly made subject to the APA by law or judicial decision. Thus, most local boards and commissions are not covered by the APA and would not have authority under the bill to adopt rules implementing the law. Some of those boards and commissions may have rulemaking authority sufficient to organize their own meetings, but would not likely have authority to define what a reasonable time might be for a person to testify at such meetings. Thus the bill leaves a great gap between the rulemaking authority necessary to implement the law and the actual authority such boards and commissions actually possess.

For boards and commissions governed by the APA, the bill provides guidance for rulemaking. However, the bill authorizes limitations on time each individual may speak, but not limitations on total time allotted for public comment. The bill requires that representatives of factions or groups address the board, but does not allow rulemaking to govern the manner of selecting such representatives. Neither does the bill define factions or groups. It also does not provide for rulemaking for the division of time between those addressing the board or commission.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Placement in Law

The bill creates s. 286.0114, F.S., to provide provisions governing the opportunity for the public to be heard at a public meeting of a board or commission. It is suggested that the provisions be created in s. 286.0110, F.S., in order to ensure that the provisions are placed in law behind the Sunshine Law. As currently drafted, the opportunity to speak provisions would be placed in law behind exemptions to the Sunshine Law.

Boards and Commissions

The bill governs the opportunity for the public to be heard at public meetings of a board or commission. The bill does not define a board or commission for purposes of the new requirements. It is suggested that the bill be amended to clarify that it applies to "any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision" as provided in the Sunshine Law.

Exceptions

The bill provides three exceptions: emergencies that do not permit unreasonable delay; ministerial acts; an administrative hearing adjudicating the rights or interests of a person. However, the bill does not exempt meetings that have been properly exempted from the open meeting law pursuant to the constitution.¹³ For instance, current law exempts from the open meetings requirements, those meetings that would reveal a security system plan or portion thereof that is confidential and exempt from the open records law.¹⁴ Thus, the bill would require a board or commission to permit public comment on confidential matters that involve sensitive public security information. It would also allow public comment on closed meetings involving competitive negotiations¹⁵ and litigation.¹⁶ The bill may, therefore, invite public advocacy on such confidential matters and could undermine the public necessity that justified the exemption from the open meeting and/or open records requirements.

Rules and Procedures

The bill provides that the opportunity to be heard is subject to reasonable rules or policies adopted by the board or commission. It limits the scope of the rules and policies and requires each board or commission subject to the Administrative Procedure Act (APA) to adopt the rules under ss. 120.536(1) and 120.54, F.S. As currently drafted, the bill only authorizes boards or commissions subject to the APA to adopt the limited rules and policies. Local governments generally are not subject to the APA. As such, the bill could be interpreted in three ways:

¹³ Art. I, s. 24(c), Fl. Const., provides that the Legislature may enact exemptions from public records and public meetings requirements.

¹⁴ Section 286.0113(1).

¹⁵ See S. 286.0113(2).

¹⁶ See S. 286.011(8).

1. Local boards and commissions would not be afforded the same opportunity to adopt the limited rules and policies;
2. Local boards and commissions would not be limited in the rules and policies they could adopt; or
3. Local boards and commissions would have to adopt rules and policies under ss. 120.536(1) and 120.54, F.S., if they wanted to adopt any rules or policies.

As such, it is suggested that the bill be amended to clarify the authorization to adopt rules or policies. Also, as described under B. RULE-MAKING AUTHORITY, above, the bill could more comprehensively address practical matters necessary to ensure orderly meetings when public participation is required.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 18, 2012, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment removes placement of the provisions from the Sunshine Law and, instead, places the provisions in a new s. 286.0114, F.S. It also removes the fines, penalties, and attorney's fees. The bill removes the provision providing that if the board or commission violates the provisions governing the right to speak, then the actions of the board or commission are nullified. Finally, it removes the public meeting exemption.

The analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to public meetings; creating s.
 3 286.0114, F.S.; requiring that a member of the public
 4 be given a reasonable opportunity to be heard before a
 5 board or commission takes official action on a
 6 proposition before the board or commission; providing
 7 that the opportunity to be heard is subject to rules
 8 or policies adopted by the board or commission;
 9 specifying certain exceptions; providing requirements
 10 for rules or policies governing the opportunity to be
 11 heard; providing that compliance with the requirements
 12 of the act is presumed under certain circumstances;
 13 requiring that a board or commission that is subject
 14 to ch. 120, F.S., adopt rules; providing an effective
 15 date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 286.0114, Florida Statutes, is created
 20 to read:

21 286.0114 Public meetings; reasonable opportunity to be
 22 heard.-
 23 (1) Members of the public shall be given a reasonable
 24 opportunity to be heard on a proposition before a board or
 25 commission. The opportunity to be heard need not occur at the
 26 same meeting at which the board or commission takes official
 27 action on the item, if the opportunity occurs at a meeting that
 28 meets the same notice requirements as the meeting at which the

29 board or commission takes official action on the item, occurs at
 30 a meeting that is during the decisionmaking process, and is
 31 within reasonable proximity before the meeting at which the
 32 board or commission takes the official action. The opportunity
 33 to be heard is subject to reasonable rules or policies adopted
 34 by the board or commission to ensure the orderly conduct of a
 35 public meeting, as provided in subsection (3).

36 (2) The requirements in subsection (1) do not apply to:

37 (a) An official act that must be taken to deal with an
 38 emergency situation affecting the public health, welfare, or
 39 safety, when compliance with the requirements would cause an
 40 unreasonable delay in the ability of the board or commission to
 41 act;

42 (b) An official act involving no more than a ministerial
 43 act; or

44 (c) A meeting in which the board or commission is acting
 45 in a quasi-judicial capacity with respect to the rights or
 46 interests of a person. This paragraph does not affect the right
 47 of a person to be heard as otherwise provided by law.

48 (3) Rules or policies of a board or commission adopted
 49 under subsection (5) must be limited to rules or policies that:

50 (a) Designate a specified period of time for public
 51 comment;

52 (b) Limit the time an individual has to address the board
 53 or commission;

54 (c) Require, at meetings in which a large number of
 55 individuals wish to be heard, that representatives of groups or
 56 factions on an item, rather than all of the members of the

57 groups or factions, address the board or commission; or
 58 (d) Prescribe procedures or forms for an individual to use
 59 in order to inform the board or commission of a desire to be
 60 heard, to indicate his or her support, opposition, or neutrality
 61 on a proposition, and to indicate his or her designation of a
 62 representative to speak for him or her or his or her group on a
 63 proposition if he or she so chooses.

64 (4) If a board or commission adopts rules or policies in
 65 compliance with this section and follows such rules or policies
 66 when providing an opportunity for members of the public to be
 67 heard, it is presumed that the board or commission is acting in
 68 compliance with this section.

69 (5) Each board or commission that is subject to chapter
 70 120 shall adopt rules under ss. 120.536(1) and 120.54 to
 71 administer this section.

72 Section 2. This act shall take effect July 1, 2012.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Watson offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 286.011, Florida Statutes, is amended
8 to read:

9 286.011 Public meetings and records; public inspection;
10 criminal and civil penalties.—

11 (1) All meetings of any board or commission of any state
12 agency or authority or of any agency or authority of any county,
13 municipal corporation, or political subdivision, or of any
14 entity created under general, special or local law, ~~except as~~
15 ~~otherwise provided in the Constitution,~~ at which official acts
16 are to be taken are declared to be public meetings open to the
17 public at all times, and no resolution, rule, ordinance, code,
18 or formal action shall be ~~considered~~ binding except as taken or



Amendment No. 1

19 made at such meeting. The following requirements shall apply as
20 to all meetings formal or informal:

21 (a) The board, entity or commission must provide reasonable
22 notice and the matters to be agendaed with all attachments no
23 less than three days prior to of all such meetings, unless
24 emergency in nature then it shall be no less than 24 hours. The
25 agenda may be amended thereafter when necessary. At least two
26 copies of the agenda with all attachments shall be available for
27 public inspection the day of each meeting.

28 (b) Citizens or other persons shall have the right to speak
29 within no less than three minutes, at the discretion of
30 presiding officer such may me extended, on any matter within
31 purview of the board, commission, or entity at the beginning of
32 the meeting either after the call to order or pledge and
33 invocation segment of the agenda as shown in the order printed.

34 (c) Citizens or other persons shall have the right to speak
35 within no less than three minutes, at the discretion of
36 presiding officer such may me extended, on all agenda items
37 which effect appointment of public officers, land use, taxes,
38 fees, rates, fines, rights, and interests of any given citizens,
39 persons or businesses such matters shall not be placed as
40 consent items on the agenda. All other matters such as awards,
41 presentations, reports, minutes, announcements, and internally
42 or solely administrative and ministerial or emergency in nature
43 cited on the agenda shall be at the discretion of the presiding
44 officer to allow public comment.

45 (d) On all matters listed on the agenda for public hearing
46 citizens or other persons shall have the right to speak within

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47 no less than three minutes, at the discretion of the presiding
48 officer such may me extended, whether they are proponents,
49 opponents or undecided on the item pending for action.

50 (e) Questions where clearly asked by citizens or other
51 persons shall be responded to either at the meeting publicly or
52 by some form of correspondence within ten days of the inquiry
53 which answer shall be recorded with the minutes of the meeting
54 for public inspection.

55 (f) At the discretion of the presiding officer over any
56 meetings as prescribed in this section in which a large number
57 of individuals wish to be heard, it may be required that
58 representatives of groups or factions on an item, rather than
59 all of the members of the groups or factions, address the board,
60 entity, or commission.

61 (2) The minutes of a meeting of any such board or
62 commission of any such state agency or authority, or entity
63 shall be promptly recorded, and such records shall be open to
64 public inspection. The circuit courts of this state shall have
65 jurisdiction to issue injunctions to enforce the purposes of
66 this section upon application by any citizen of this state or
67 other person.

68 (3) (a) Any public officer who violates any provision of
69 this section is guilty of a noncriminal infraction, punishable
70 by fine not exceeding \$500.

71 (b) Any person who is a member of a board or commission or
72 of any state agency or authority of any county, municipal
73 corporation, or political subdivision, or of any entity created
74 under general, special or local law who knowingly violates the



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75 provisions of this section by attending a meeting not held in
76 accordance with the provisions hereof is guilty of a misdemeanor
77 of the second degree, punishable as provided in s. 775.082 or s.
78 775.083.

79 (c) Conduct which occurs outside the state which would
80 constitute a knowing violation of this section is a misdemeanor
81 of the second degree, punishable as provided in s. 775.082 or s.
82 775.083.

83 (4) Whenever an action has been filed against any board or
84 commission of any state agency or authority or any agency or
85 authority of any county, municipal corporation, or political
86 subdivision, or of any entity created under general, special or
87 local law to enforce the provisions of this section or to
88 invalidate the actions of any such board, entity, commission,
89 agency, or authority, which action was taken in violation of
90 this section, and the court determines that the defendant or
91 defendants to such action acted in violation of this section,
92 the court shall assess a reasonable attorney's fee against such
93 agency, and may assess a reasonable attorney's fee against the
94 individual filing such an action if the court finds it was filed
95 in bad faith or was frivolous. Any fees so assessed may be
96 assessed against the individual member or members of such board
97 or commission; provided, that in any case where the board or
98 commission seeks the advice of its attorney and such advice is
99 followed, no such fees shall be assessed against the individual
100 member or members of the board, entity or commission. However,
101 this subsection shall not apply to a state attorney or his or



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102 her duly authorized assistants or any officer charged with
103 enforcing the provisions of this section.

104 (5) Whenever any board or commission of any state agency
105 or authority or any agency or authority of any county, municipal
106 corporation, ~~or~~ political subdivision, or of any entity created
107 under general, special or local law appeals any court order
108 which has found said board, entity, commission, agency, or
109 authority to have violated this section, and such order is
110 affirmed, the court shall assess a reasonable attorney's fee for
111 the appeal against such board, entity, commission, agency, or
112 authority. Any fees so assessed may be assessed against the
113 individual member or members of such board, entity or
114 commission; provided, that in any case where the board, entity
115 or commission seeks the advice of its attorney and such advice
116 is followed, no such fees shall be assessed against the
117 individual member or members of the board, entity or commission.

118 (6) All persons subject to subsection (1) are prohibited
119 from holding meetings at any facility or location which
120 discriminates on the basis of sex, age, race, creed, color,
121 origin, or economic status or which operates in such a manner as
122 to unreasonably restrict public access to such a facility.

123 (7) Whenever any member of any board or commission of any
124 state agency or authority or any agency or authority of any
125 county, municipal corporation, ~~or~~ political subdivision, or of
126 any entity created under general, special or local law is
127 charged with a violation of this section and is subsequently
128 acquitted, the board, entity or commission is authorized to



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129 reimburse said member for any portion of his or her reasonable
130 attorney's fees.

131 (8) Notwithstanding the provisions of subsection (1), any
132 board or commission of any state agency or authority or any
133 agency or authority of any county, municipal corporation, or
134 political subdivision, or of any entity created under general,
135 special or local law, and the chief administrative or executive
136 officer of the governmental entity, may meet in private with the
137 entity's attorney to discuss pending litigation to which the
138 entity is presently a party before a court or administrative
139 agency, provided that the following conditions are met:

140 (a) The board, entity or commission ~~entity's~~ attorney
141 shall advise the entity at a public meeting that he or she
142 desires advice concerning the litigation.

143 (b) The subject matter of the meeting shall be confined to
144 settlement negotiations or strategy sessions related to
145 litigation expenditures.

146 (c) The entire session shall be recorded by a certified
147 court reporter. The reporter shall record the times of
148 commencement and termination of the session, all discussion and
149 proceedings, the names of all persons present at any time, and
150 the names of all persons speaking. No portion of the session
151 shall be off the record. The court reporter's notes shall be
152 fully transcribed and filed with the entity's clerk within a
153 reasonable time after the meeting.

154 (d) The board, entity or commission ~~entity~~ shall give
155 reasonable public notice of the time and date of the attorney-
156 client session and the names of persons who will be attending

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157 the session. The session shall commence at an open meeting at
158 which the persons chairing the meeting shall announce the
159 commencement and estimated length of the attorney-client session
160 and the names of the persons attending. At the conclusion of the
161 attorney-client session, the meeting shall be reopened, and the
162 person chairing the meeting shall announce the termination of
163 the session.

164 (e) The transcript shall be made part of the public record
165 upon conclusion of the litigation.

166 (9) This section shall preempt all other laws on public
167 meetings unless stated otherwise by the constitution or general
168 law and shall be supplementary to the constitution, general law
169 or court precedent which are not in conflict herewith.

170 Section 2. The bill shall take effect July 1, 2012

171

172

173

174

T I T L E A M E N D M E N T

175

Remove the entire title and insert:

176

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 529 Adult Day Care Centers

SPONSOR(S): Health & Human Services Access Subcommittee; Corcoran

TIED BILLS: IDEN./SIM. BILLS: CS/CS/SB 694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee	14 Y, 0 N, As CS	Guzzo	Schoolfield
2) Rulemaking & Regulation Subcommittee		Rubottom	Rubottom
3) Health Care Appropriations Subcommittee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill creates the "Specialized Alzheimer's Services Adult Day Care Act"(Act). The act imposes increased standards by creating a specialty license for adult day care centers (ADCCs) wishing to hold themselves out to the public as providing specialized care for individuals with Alzheimer's disease or other dementia related disorders. Adult day care centers currently advertising as providing specialty care for Alzheimer's disease or other dementia-related disorders will be required to obtain the specialty license or cease advertising as providing these specialty services. Under the Act, ADCCs wishing to obtain the specialty license will be required to meet certain standards of care and provide a program for dementia-specific, therapeutic activities.

The bill requires additional staff, increased monitoring, and training in order to hold an adult day care license for a center specializing in Alzheimer's disease or other dementia-related disorders. The bill also increases the requirements to become an operator of an ADCC specializing in Alzheimer's disease or other dementia-related disorders.

The bill appears to have an insignificant fiscal impact (See fiscal comments).

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Alzheimer's Disease

There is an estimated 5.4 million people in the United States with Alzheimer's disease, including 5.2 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's disease.¹ In addition, there is an estimated 459,806 individuals suffering from Alzheimer's disease in the state of Florida.²

By 2030, the segment of the United States population aged 65 years and older is expected to double; and the estimated 71 million older Americans will make up approximately 20 percent of the total population.³ By 2050, the number of people aged 65 and older with Alzheimer's disease is expected to triple to a projected 16 million people.⁴

Adult Day Care Centers - General

Adult day care centers (ADCCs) are regulated by the Agency for Health Care Administration (AHCA) pursuant to part II of chapter 408, F.S., and part III of chapter 429, F.S. An adult day care center is defined as "any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services."⁵

Nearly half of all patients in adult day care centers in the United States suffer from Alzheimer's disease or another form of dementia. Currently, there are 202 licensed ADCCs in the State of Florida.⁶ Section 429.90, F.S., directs AHCA to develop, establish, and enforce basic standards for ADCCs in order to assure that a program of therapeutic social and health activities and services is provided to adults who have functional impairments. Section 429.929, F.S., authorizes the Department of Elder Affairs, in conjunction with AHCA, to adopt rules to implement the provisions of part III of chapter 429, F.S.

Each center must offer a planned program of varied activities and services promoting and maintaining the health of participants and encouraging leisure activities, interaction and communication among participants on a daily basis. Such activities and services must be available during at least sixty-percent of the time the center is open.⁷

Participant Eligibility

Participant eligibility in ADCCs is limited to adults with functional impairments in need of a protective environment and a program of therapeutic social and health activities and services. Centers are prohibited from accepting participants who require medication during the time spent at the center and who are incapable of self-administration of medications, unless there is a person to provide this service

¹ Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp

² Florida Department of Elder Affairs, 2011 Florida State Profile, located at http://elderaffairs.state.fl.us/english/pubs/stats/County_2011Projections/Florida_Map.html

³ Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp

⁴ *Id.*

⁵ S. 429.901(1), F.S.

⁶ AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

⁷ Rule 58A-6.008(1), F.A.C.

who is licensed to administer medications.⁸ Participants are required to provide a statement within forty-five days prior to admission signed by a physician documenting freedom from tuberculosis and freedom from signs and symptoms of other communicable diseases.⁹ Participants shall not be admitted or retained in a center if the required services are beyond those that the center is licensed to provide.¹⁰

Staffing Requirements

Adult day care centers are required to have one staff member for every six participants, and at no time may a center have less than two staff members present.¹¹ Staffing must be maintained at all times to meet the needs of the participants as required by the participant file.¹² The owner or operator may be counted as one of the required staff members if they provide direct services and are included in the work schedule for the center.¹³

Optional Supportive Services

Adult day care centers may choose to provide optional supportive services. If provided, such services must be administered by staff qualified to provide such services. One of the optional supportive services that an ADCC may choose to provide is adult day health care services for disabled adults or aged persons. If an ADCC chooses to provide this service it must comply with certain standards relating to the operation of the center.¹⁴ The center must have a registered nurse or licensed practical nurse (LPN) on site. If the center chooses an LPN, the LPN must be supervised in accordance with chapter 464, F.S. To be considered a qualified operator of an ADCC, providing optional supportive services, the operator must:¹⁵

- Hold a minimum of a Bachelor's degree in a health or social services or related field with one year of supervisory experience in a social or health service setting; or
- Hold a registered nurse license with one year of supervisory experience; or
- Have five years of supervisory experience in a social or health service setting.

Adult Day Care Centers-Alzheimer's Specific Requirements

Adult day care centers are required to provide the following Alzheimer's specific staff training:¹⁶

- Each employee must receive basic written information about interacting with participants who have Alzheimer's disease or other dementia-related disorders;
- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or other dementia-related disorders must complete initial training of at least one hour within the first three months of employment; and
- Employees who will be providing direct care to a participant who has Alzheimer's disease or other dementia-related disorders must complete an additional three hours of training within the first nine months of employment.

Current law requires ADCCs who claim to provide special care for individuals with Alzheimer's disease or other related disorders to disclose in its advertisements or in a separate document those services that distinguish the care as being applicable to such persons.¹⁷ At the time of survey, AHCA reviews

⁸ Rule 58A-6.006(1)(a), F.A.C.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Rule 58A-6.006(8), F.A.C.

¹² *Id.*

¹³ *Id.*

¹⁴ Rule 58A-6.010(6), F.A.C.

¹⁵ Rule 58A-6.010(6)(c), F.A.C.

¹⁶ S. 429.917(1), F.S.

¹⁷ S. 429.917(2), F.S.

documentation and advertisements relating to specialty care provided at the ADCC.¹⁸ There are no additional requirements placed on a center wishing to hold itself out as an ADCC providing such specialized services.¹⁹

Effect of Proposed Changes

The bill creates the “Specialized Alzheimer’s Services Adult Day Care Act”. The bill provides for an adult day care specialty license for ADCCs wishing to hold themselves out to the public as providing specialized care for individuals with Alzheimer’s disease or other dementia-related disorders. The bill requires additional staff, increased monitoring, and training in order to hold an adult day care license for a center specializing in Alzheimer’s or other dementia-related disorders.

The bill does not prohibit ADCCs who do not have the specialty license from advertising that they provide Alzheimer’s services, but it does prohibit them from claiming to be licensed to provide specialized Alzheimer’s services unless they receive the specialty license..

Adult day care centers seeking the specialty license must meet the following additional requirements beyond the standards contained in Part III of Chapter 429, Florida Statutes:

- Have a mission statement that includes a commitment to providing dementia-specific services;
- Disclose in the center’s advertisements or in a separate document the services that distinguish the care as being suitable for a person who has Alzheimer’s disease or a dementia-related disorder;
- Provide a program for dementia-specific, therapeutic activities;
- Maintain a staff-to-participant ratio of one staff member who provides direct services for every five participants. This is an increase from the current staff to patient ratio requirement of one staff member for every six participants under Rule 58A-6.006(8)(a), F.A.C.;
- Provide a program for therapeutic activity at least seventy-percent of the time that the center is open. This is an increase from the current requirement of sixty-percent under Rule 58A-6.008, F.A.C.;
- Provide hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care;
- Use assessment tools that identify the participant’s cognitive deficits and identify the specialized and individualized needs of the participant and the caregiver. This assessment must be conducted upon the participants admission to the center and must be updated when the participant experiences a significant change, but no less frequently than annually;
- Create an individualized plan of care for each participant, which addresses the dementia-specific needs of the participant and the caregiver. The plan of care must be established upon the participants admission to the center and must be reviewed quarterly;
- Conduct a monthly health assessment of the participant;
- Complete a monthly narrative in the participant’s file regarding their status or progress toward meeting the goals indicated on the individualized plan of care;
- Assist in the referral or coordination of other dementia-specific services and resources needed by the participant or caregiver;
- Offer, facilitate, or provide referrals to a support group for caregivers; and
- Have a registered nurse or licensed practical nurse on site daily for at least seventy-five-percent of the time that the center is open.
- Provide dementia-specific educational materials regularly to participants, as appropriate, and their caregivers;
- Routinely conduct and document a count of all participants present in the center throughout each day;

¹⁸ AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

¹⁹ *Id.*

- Be a secured unit or have working alarm or security devices installed on every door that is accessible to the participant and provides egress from the center or areas of the center designated for the provision of adult day care specialized Alzheimer's services;
- Not allow a participant to administer their own medication; and
- Not allow a participant to drive to or from the center.

The bill requires participant files to contain a data sheet, which must be completed within 45 days before or within 24 hours after admission to the ADCC. The data sheet must contain information regarding the status of the participant's enrollment in an identification or wandering-prevention program, including the name of the program and a current photograph of the participant.

The bill requires an ADCC to give to each participant or the participant's caregiver a copy of the participant's plan of care, and a copy of the policies and procedures of the center, which must include information pertaining to driving for those persons affected by Alzheimer's disease or dementia, available technology on wandering-prevention devices and identification devices, the Silver Alert program, and dementia-specific safety interventions and strategies that can be use in the home setting.

Training Requirements

Currently, ADCC staff must meet the following Alzheimer's specific training requirements:²⁰

- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or other dementia-related disorders must complete initial training of at least one hour within the first three months of employment; and
- Employees who will be providing direct care to a participant who has Alzheimer's disease or other dementia-related disorders must complete an additional three hours of training within the first nine months of employment.

The bill requires ADCC staff, hired on or after July 1, 2012, of facilities who hold the Alzheimer's specialty license to meet the following Alzheimer's specific training requirements:

- Personnel whose responsibilities require them to have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete four hours of dementia-specific training within the first three months of employment.
- Each employee who provides direct care to participants will be required to complete an additional four hours of dementia-specific training within the first six months of employment.

The bill requires the Department of Elderly Affairs or its designee to approve the training and adopt rules to establish standards for employees who are subject to this training, for trainers, and for the training itself.

Upon completing the required training the employee shall be issued a certificate that includes the name of the training provider, the topics covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topics, and the employee is not required to repeat training in those topics if the employee changes employment to a different ADCC.

Currently, ADCC staff members are required to be trained to implement the policies and procedures specified in the orientation and training plan.²¹ The orientation and training plan is a written plan developed and reviewed at least annually and implemented throughout the year which describes a coordinated program for staff training for each service and for orientation of each new staff member on center policies, procedures, assigned duties and responsibilities, which must begin no later than the first day of employment.²² The bill requires staff orientation to include procedures to locate a participant who has wandered from the center which must be reviewed regularly with all direct care staff;

²⁰ S. 429.917, F.S.

²¹ Rule 58A-6.007(2), F.A.C.

²² Rule 58A-6.002(o), F.A.C.

information on the Silver Alert program; and information regarding available products or programs used to identify participants or prevent them from wandering away from the center, their home, or other locations.

Operator Requirements

Currently, operators of ADCCs are not required to meet any educational or background experience requirements to qualify as an operator. In order to obtain the Alzheimer's specialty license, the bill requires ADCC operators who are hired on or after July 1, 2012 to meet the educational and experience requirements that are currently only applicable to ADCCs who chose to provide optional supportive services for disabled adults or aged persons. Adult day care center operators, or their designees, will be required to have a Bachelors degree in health care services, social services, or a related field, one year of supervisory experience in a social services or health care service setting, and have a minimum of one-year of experience in providing dementia-specific services. A person may also qualify to be an operator if they possess a license as a registered or practical nurse, have one year of supervisory experience in a social services or health care services setting, and have a minimum of one year of experience in providing dementia-specific services. Lastly, a person may qualify as an operator if they have five years of supervisory experience in social services or health care services, and a minimum of three years of experience in providing dementia-specific services.

Participant Eligibility

The bill creates additional admission requirements for participants seeking admittance in an ADCC holding the Alzheimer's specialty license. The additional admission requirements would prohibit a center having the specialty license from being able to admit participants other than those meeting the specific admission requirements. These specialty centers would not be able to service populations other than those participants.²³ The bill requires potential ADCC participants to meet the following pre-admission requirements:

- Require ongoing supervision to maintain the highest level of medical or custodial functioning and have a demonstrated need for a responsible party to oversee his or her care;
- Must not actively demonstrate aggressive behavior that places themselves or others at risk of harm; and
- Provide additional medical documentation signed by a licensed physician or a health care provider, which must include:
 - Any physical, health, or emotional conditions that require medical care;
 - A listing of the current prescribed and over-the-counter medications and dosages, diet restrictions, mobility restrictions, and other physical limitations; and
 - Proof that the person is free of the communicable form of tuberculosis and free of signs and symptoms of other communicable diseases.

The bill also requires the ADCC to make certain determinations regarding the centers ability to treat the potential participant before admission. The ADCC must determine whether:

- The medical, psychological, safety, and behavioral support and intervention required by the person can be provided by the center; and
- The resources required to assist with the person's acuity of care and support needed can be provided or coordinated by the center.

The bill requires ADCCs to coordinate and execute appropriate discharge procedures for participants who have had their enrollment involuntarily terminated due to medical or behavioral reasons.

B. SECTION DIRECTORY:

²³ AHCA, *Staff Analysis and Economic Impact, House Bill Number 529* (December 15, 2011).

- Section 1. Amends s. 429.917, F.S., relating to patients with Alzheimer's disease or other related disorders;
Section 2. Creates s. 429.918, F.S., relating to the Specialized Alzheimer's Services License;
Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will require more and different staff and expenses for adult day care centers wishing to obtain the Adult Day Care Specialized Alzheimer's Services License.

D. FISCAL COMMENTS:

The Agency for Health Care Administration expects this legislation to result in annual recurring expenditures of \$94,204. Licensure fees from the creation of the specialty license may be used to cover the cost of licensure and required surveys if increased appropriately.²⁴ The Agency for Health Care Administration can absorb the impact of this increase within their existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Elderly Affairs to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

²⁴ *Id.*

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Health and Human Services Access Subcommittee adopted a strike-all amendment to HB 529. The amendment:

- Prohibits an adult day care center from claiming to be licensed to provide specialized Alzheimer's services unless it receives the specialty license;
- Defines the term "ADRD participant";
- States that the licensure created by the bill is voluntary;
- Requires an adult day care center with the specialty license to provide ADRD participants with hands-on assistance with activities of daily living, inclusive of the provision of urinary and bowel incontinence care;
- Provides that only operators hired on or after July 1, 2012, have to meet the specified educational and experience requirements;
- Provides that a registered nurse or licensed practical nurse must be on site daily for at least seventy-five-percent of the time that the center is open, rather than during all hours of operation;
- Provides that only staff hired on or after July 1, 2012, have to complete the additional training requirements;
- Requires the Department of Elderly Affairs to approve the training required under the bill and provides rulemaking authority to the department to do so;
- Provides that employees must receive a certificate upon completion of the required training;
- Requires every employee to receive basic written information about interacting with ADRD participants;
- Clarifies that the bill does not prohibit an adult day care center that chooses not to become licensed from providing adult day care services to persons who have Alzheimer's disease or other dementia-related disorders; and
- Makes technical changes.

The bill was reported favorably as a Committee Substitute. This analysis reflects the Committee Substitute.

1 A bill to be entitled
 2 An act relating to adult day care centers; amending s.
 3 429.917, F.S.; prohibiting an adult day care center
 4 from claiming to be licensed to provide specialized
 5 Alzheimer's services under certain circumstances;
 6 creating s. 429.918, F.S.; providing a short title;
 7 providing definitions; providing for the voluntary
 8 licensure of adult day care centers that provide
 9 specialized Alzheimer's services; requiring an adult
 10 day care center seeking such licensure to meet
 11 specified criteria; providing educational and
 12 experience requirements for the operator of an adult
 13 day care center seeking licensure to provide
 14 specialized Alzheimer's services; providing criteria
 15 for staff training and supervision; requiring that the
 16 Department of Elderly Affairs approve the staff
 17 training; requiring the department to adopt rules;
 18 requiring that the employee be issued a certificate
 19 upon completion of the staff training; providing
 20 requirements for staff orientation; providing
 21 requirements for admission into such an adult day care
 22 center; requiring that a participant's file include a
 23 data sheet, which shall be completed within a certain
 24 timeframe; requiring that certain information be
 25 included in the data sheet; requiring that dementia-
 26 specific services be documented in a participant's
 27 file; requiring that a participant's plan of care be
 28 reviewed quarterly; requiring that certain notes be

29 entered into a participant's file; requiring the
 30 participant to provide the adult day care center with
 31 updated medical documentation; requiring the center to
 32 give each person who enrolls as a participant, or the
 33 caregiver, a copy of the participant's plan of care
 34 and safety information; requiring that the center
 35 coordinate and execute discharge procedures with a
 36 participant who has a documented diagnosis of
 37 Alzheimer's disease or a dementia-related disorder and
 38 the caregiver if the participant's enrollment in the
 39 center is involuntarily terminated; providing that the
 40 act does not prohibit an adult day care center that
 41 does not become licensed to provide specialized
 42 Alzheimer's services from providing adult day care
 43 services to persons who have Alzheimer's disease or
 44 other dementia-related disorders; authorizing the
 45 Department of Elderly Affairs to adopt rules;
 46 providing an effective date.

47

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

49

50 Section 1. Subsection (2) of section 429.917, Florida
 51 Statutes, is amended to read:

52 429.917 Patients with Alzheimer's disease or other related
 53 disorders; staff training requirements; certain disclosures.—

54 (2) A center licensed under this part which claims that it
 55 provides special care for persons who have Alzheimer's disease
 56 or other related disorders must disclose in its advertisements

57 or in a separate document those services that distinguish the
 58 care as being especially applicable to, or suitable for, such
 59 persons. The center must give a copy of all such advertisements
 60 or a copy of the document to each person who requests
 61 information about the center and must maintain a copy of all
 62 such advertisements and documents in its records. The agency
 63 shall examine all such advertisements and documents in the
 64 center's records as part of the license renewal procedure. An
 65 adult day care center may not claim to be licensed to provide
 66 specialized Alzheimer's services unless it has been licensed
 67 pursuant to s. 429.918.

68 Section 2. Section 429.918, Florida Statutes, is created
 69 to read:

70 429.918 Specialized Alzheimer's services licensure.-

71 (1) This section may be cited as the "Specialized
 72 Alzheimer's Services Adult Day Care Act."

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

74 (a) "ADRD participant" means a participant who has a
 75 documented diagnosis of Alzheimer's disease or a dementia-
 76 related disorder (ADRD) from a licensed physician or a health
 77 care provider who is under the direct supervision of a licensed
 78 physician.

79 (b) "Dementia" means the loss of at least two intellectual
 80 functions, such as thinking, remembering, and reasoning, which
 81 is severe enough to interfere with a person's daily function.
 82 The term does not describe a disease, but describes a group of
 83 symptoms that may accompany certain diseases or physical
 84 conditions.

85 (c) "Specialized Alzheimer's services" means therapeutic,
 86 behavioral, health, safety, and security interventions; clinical
 87 care; support services; and educational services that are
 88 customized for the specialized needs of an ADRD participant's
 89 caregiver and the participant who is affected by Alzheimer's
 90 disease or an irreversible, degenerative condition resulting in
 91 dementia.

92 (3) In addition to the standards required for licensure as
 93 an adult day care center under this part, an adult day care
 94 center may seek voluntary licensure under this section as a
 95 specialized Alzheimer's services licensee.

96 (4) An adult day care center seeking licensure under this
 97 section must:

98 (a) Have a mission statement that includes a commitment to
 99 proving dementia-specific services and disclose in the center's
 100 advertisements or in a separate document the services that
 101 distinguish the care as being suitable for a person who has
 102 Alzheimer's disease or a dementia-related disorder.

103 (b) Provide ADRD participants with a program for dementia-
 104 specific, therapeutic activities, including, but not limited to,
 105 physical, cognitive, and social activities appropriate for the
 106 ADRD participant's age, culture, and level of function.

107 (c) Maintain at all times a minimum staff-to-participant
 108 ratio of one staff member who provides direct services for every
 109 five ADRD participants.

110 (d) Provide ADRD participants with a program for
 111 therapeutic activity at least 70 percent of the time that the
 112 center is open.

113 (e) Provide ADRD participants with hands-on assistance
 114 with activities of daily living, inclusive of the provision of
 115 urinary and bowel incontinence care.

116 (f) Use assessment tools that identify the ADRD
 117 participant's cognitive deficits and identify the specialized
 118 and individualized needs of the ADRD participant and the
 119 caregiver. This assessment shall be conducted when the ADRD
 120 participant is initially admitted into the center and shall be
 121 updated when the ADRD participant experiences a significant
 122 change, but no less frequently than annually.

123 (g) Create an individualized plan of care for each ADRD
 124 participant which addresses the identified, dementia-specific
 125 needs of the ADRD participant and the caregiver. The plan of
 126 care shall be established when the ADRD participant is initially
 127 admitted into the center and reviewed at least quarterly.

128 (h) Conduct a monthly health assessment of each ADRD
 129 participant which includes, but is not limited to, the ADRD
 130 participant's weight, vital signs, and level of assistance
 131 needed with activities of daily living.

132 (i) Complete a monthly update in each ADRD participant's
 133 file regarding the ADRD participant's status or progress toward
 134 meeting the goals indicated on the individualized plan of care.

135 (j) Assist in the referral or coordination of other
 136 dementia-specific services and resources needed by the ADRD
 137 participant or the caregiver, such as medical services,
 138 counseling, medical planning, legal planning, financial
 139 planning, safety and security planning, disaster planning,
 140 driving assessment, transportation coordination, or wandering

141 prevention.

142 (k) Offer, facilitate, or provide referrals to a support
 143 group for persons who are caregivers to ADRD participants.

144 (l) Provide dementia-specific educational materials
 145 regularly to ADRD participants, as appropriate, and their
 146 caregivers.

147 (m) Routinely conduct and document a count of all ADRD
 148 participants present in the center throughout each day. This
 149 count must be compared to each ADRD participant's attendance
 150 record in order to ensure that an ADRD participant is not
 151 missing from the center.

152 (n) Be a secured unit or have working alarm or security
 153 devices installed on every door that is accessible to the ADRD
 154 participants and provides egress from the center or areas of the
 155 center designated for the provision of specialized Alzheimer's
 156 adult day care services.

157 (o) Not allow an ADRD participant to administer his or her
 158 own medication.

159 (p) Not allow an ADRD participant to drive himself or
 160 herself to or from the center.

161 (5) The operator of an adult day care center licensed
 162 under this section, and the operator's designee, as applicable,
 163 hired on or after July 1, 2012, shall:

164 (a) Have at least a bachelor's degree in health care
 165 services, social services, or a related field, at least 1 year
 166 of supervisory experience in a social services or health care
 167 services setting, and at least 1 year of experience in providing
 168 services to persons who have dementia;

169 (b) Be a registered or practical nurse licensed in this
 170 state, have at least 1 year of supervisory experience in a
 171 social services or health care services setting, and have at
 172 least 1 year of experience in providing services to persons who
 173 have dementia; or

174 (c) Have at least 5 years of supervisory experience in a
 175 social services or health care services setting and at least 3
 176 years of experience in providing services to persons who have
 177 dementia.

178 (6)(a) An adult day care center licensed under this
 179 section must provide the following staff training and
 180 supervision:

181 1. A registered nurse or licensed practical nurse must be
 182 on site daily for at least 75 percent of the time that the
 183 center is open to ADRD participants. Each licensed practical
 184 nurse who works at the center must be supervised in accordance
 185 with chapter 464.

186 2. Upon beginning employment with the center, each
 187 employee must receive basic written information about
 188 interacting with ADRD participants.

189 3. In addition to the information provided in subparagraph
 190 2., every employee hired on or after July 1, 2012, who has
 191 direct contact with ADRD participants shall complete 4 hours of
 192 dementia-specific training within 3 months after beginning
 193 employment.

194 4. In addition to the requirements of subparagraphs 2. and
 195 3., each employee hired on or after July 1, 2012, who provides
 196 direct care to ADRD participants shall complete an additional 4

197 hours of dementia-specific training within 6 months after
 198 beginning employment.

199 (b) The Department of Elderly Affairs or its designee
 200 shall approve the training required under this section. The
 201 department shall adopt rules to establish standards for
 202 employees who are subject to this training, for trainers, and
 203 for the training required in this section.

204 (c) Upon completing any training described in this
 205 section, the employee shall be issued a certificate that
 206 includes the name of the training provider, the topics covered,
 207 and the date and signature of the training provider. The
 208 certificate is evidence of completion of training in the
 209 identified topics, and the employee is not required to repeat
 210 training in those topics if the employee changes employment to a
 211 different adult day care center.

212 (d) Each employee hired on or after July 1, 2012, who
 213 provides direct care to ADRD participants, must receive an
 214 orientation plan that includes, at a minimum:

215 1. Procedures to locate an ADRD participant who has
 216 wandered from the center. These procedures shall be reviewed
 217 regularly with all direct care staff.

218 2. Information on the Silver Alert program in this state.

219 3. Information regarding available products or programs
 220 used to identify ADRD participants or prevent them from
 221 wandering away from the center, their homes, or other locations.

222 (7)(a) An ADRD participant admitted to an adult day care
 223 center licensed under this section must:

224 1. Require ongoing supervision to maintain the highest

225 level of medical or custodial functioning and have a
 226 demonstrated need for a responsible party to oversee his or her
 227 care.

228 2. Not actively demonstrate aggressive behavior that
 229 places himself, herself, or others at risk of harm.

230 3. Provide the following medical documentation signed by a
 231 licensed physician or a health care provider who is under the
 232 direct supervision of a licensed physician:

233 a. Any physical, health, or emotional condition that
 234 requires medical care.

235 b. A listing of the ADRD participant's current prescribed
 236 and over-the-counter medications and dosages, diet restrictions,
 237 mobility restrictions, and other physical limitations.

238 4. Provide documentation signed by a health care provider
 239 licensed in this state which indicates that the ADRD participant
 240 is free of the communicable form of tuberculosis and free of
 241 signs and symptoms of other communicable diseases.

242 (b) Before admitting an ADRD participant to an adult day
 243 care center licensed under this section, the center shall
 244 determine whether:

245 1. The medical, psychological, safety, and behavioral
 246 support and intervention required by the ADRD participant can be
 247 provided by the center.

248 2. The resources required to assist with the ADRD
 249 participant's acuity level of care and support needed can be
 250 provided or coordinated by the center.

251 (8) (a) An ADRD participant's file must include a data
 252 sheet, which must be completed within 45 days before or within

253 | 24 hours after admission to an adult day care center licensed
 254 | under this section. The data sheet must contain:

255 | 1. Information regarding the status of the ADRD
 256 | participant's enrollment in an identification or wandering-
 257 | prevention program, including the name of the program; and

258 | 2. A current photograph of the ADRD participant.

259 | (b) Dementia-specific services shall be documented in the
 260 | ADRD participant's file.

261 | (c) An ADRD participant's plan of care must be reviewed at
 262 | least quarterly. Notes regarding services provided to the ADRD
 263 | participant must be entered at least monthly in the ADRD
 264 | participant's file, and must indicate the ADRD participant's
 265 | status or progress toward achieving identified goals. Additional
 266 | notes must be entered more frequently if indicated by the ADRD
 267 | participant's condition.

268 | (d) An ADRD participant shall annually provide the center
 269 | with updated medical documentation required under subparagraphs
 270 | (7)(a)3. and 4., and the center must place that documentation in
 271 | the ADRD participant's file.

272 | (9) An adult day care center licensed under this section
 273 | must give to each person who enrolls as an ADRD participant in
 274 | the center, or the caregiver, a copy of the ADRD participant's
 275 | plan of care, as well as information regarding resources to
 276 | assist in ensuring the safety and security of the ADRD
 277 | participant, which must include, but need not be limited to,
 278 | information pertaining to driving for those persons affected by
 279 | dementia, available technology on wandering-prevention devices
 280 | and identification devices, the Silver Alert program in this

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281 state, and dementia-specific safety interventions and strategies
 282 that can be used in the home setting.

283 (10) If an ADRD participant's enrollment in the center is
 284 involuntarily terminated due to medical or behavioral reasons,
 285 the center shall coordinate and execute appropriate discharge
 286 procedures with the ADRD participant and the caregiver.

287 (11) This section does not prohibit an adult day care
 288 center that does not become licensed under this section from
 289 providing adult day care services to persons who have
 290 Alzheimer's disease or other dementia-related disorders.

291 (12) The Department of Elderly Affairs may adopt rules to
 292 administer this section.

293 Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 643 Title Insurance
SPONSOR(S): Insurance & Banking Subcommittee and Moraitis, Jr.
TIED BILLS: HB 645 **IDEN./SIM. BILLS:** SB 1404

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 1 N, As CS	Reilly	Cooper
2) Rulemaking & Regulation Subcommittee		Miller <i>EM</i>	Rubottom <i>DR</i>
3) Government Operations Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

Title insurance insures owners of real property (owner's policy) or others having an interest in real property against loss by encumbrance, defective title, invalidity, or adverse claim to title. The bill requires title insurers and title insurance agencies to submit to the Office of Insurance Regulation (OIR), by March 31 of each year, data that have been identified as necessary to assist in the analysis of premium rates, title search costs, and the condition of Florida's title insurance industry. The Financial Services Commission is authorized to promulgate rules governing the collection and analysis of such data. The Department of Financial Services is required to take adverse action against title insurance agents or agencies that fail to timely file the required data, including suspension or revocation of authority.

Under current law, title insurance agents must complete 10 hours of continuing education (CE) every 2 years on any insurance products sold in Florida. However, these agents are authorized to sell only title insurance products and no other lines of insurance. The bill amends CE requirements for title insurance agents, specifying that the credit hours must be earned in title insurance and escrow management courses specific to Florida and approved by the Department of Financial Services. At least 1.5 of the CE hours must be in ethics, rules, or compliance with state and federal regulations relating to title insurance and closing services.

The bill requires attorneys who serve as title insurance or real estate settlement agents to deposit and maintain funds received in connection with such transactions into a separate trust account, unless maintaining funds in the separate account for a particular client would violate rules of the Florida Bar. Such attorneys are also required to permit title insurers for whom they hold funds to audit the separate account.

The bill also requires the OIR to:

- Approve or disapprove forms filed by title insurers within 180 days after receipt and, when approving a form, to determine if the current rate applies or if the coverages require the adoption of rules.
- Expeditiously approve filed forms that contain identical coverages, rates, and approved deviations to a form the OIR has approved for another title insurer to prevent a competitive advantage in the marketplace.

The OIR is authorized to revoke approval of any form after providing 180 days notice to the title insurer.

To the extent that the bill provides timeframes for the approval/disapproval of title insurance forms and annual review of title insurance data by the OIR, it will permit title insurers to respond more quickly to changes in the marketplace and ensure that the premiums charged are appropriate.

The bill is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Overview of Title Insurance

Title insurance insures owners of real property (owner's policy) or others having an interest in real property against loss by encumbrance, defective title, invalidity, or adverse claim to title.¹ Title insurance is a policy issued by a title insurer that, after performing a search of title, represents the state of that title and insures the accuracy of its search against claims of title defects. It is usually taken out by the purchaser of property or an entity that is loaning money on a mortgage.

Purchasers of real property and lenders utilize title insurance to protect themselves against claims by others that claim to be the rightful owner of the property. Most lenders require title insurance when they underwrite loans for real property. Title insurance provides a duty to defend related to adverse claims against title, and also promises to indemnify the policyholder for damage to the lender's security interest created by a cloud on title, unmarketable title, or adverse title that was not discovered by the insurer.²

Regulation in Florida

Historically, a single regulatory entity, the Department of Insurance, promulgated title insurance rates and regulated title insurance agents in Florida. Under current law, two entities provide regulatory oversight of the title insurance industry: the Department of Financial Services (DFS), which regulates title agents, and the Office of Insurance Regulation (OIR), which regulates title insurers, including licensing and promulgation of rates. Title insurance forms must be filed and approved by the OIR prior to usage^{3,4} and rates and premiums charged by title insurers are specified by rule by the Financial Services Commission (FSC).⁵ Title insurers may deviate from the proscribed rates by petitioning the OIR for an order authorizing a specific deviation from the adopted premium.⁶

Title insurers operate on a monoline basis, meaning that the insurer can only transact title insurance and cannot transact any other type of insurance.⁷ Pursuant to s. 627.782, F.S., the FSC is mandated to adopt by rule and specify a premium to be charged by title insurers for the respective types of title insurance contracts and, for policies issued through agents or agencies, the percentage of such premium required to be retained by the title insurer, which shall not be less than 30%. The FSC must review the premium not less than once every three years. Also, the FSC may by rule require insurers to submit statistical information, including loss and expense data, as it determines to be necessary to analyze premium rates.⁸ This rulemaking is not mandatory under the present statute.

Title Insurance Agencies and Agents

¹ Section 624.608, F.S. Title insurance is also insurance of owners and secured parties as to the existence, attachment, perfection and priority of a security interest in personal property under the Uniform Commercial Code.

² See, e.g., the website of the American Land Title Association, <http://www.alta.org> (last visited January 7, 2012). ALTA is the national trade association of the abstract and title insurance industry. There are currently six basic ALTA policies of title insurance: Lenders, Lenders Leasehold, Owners, Owners Leasehold, Residential, and Construction Loan Policies.

³ Section 627.777, F.S.

⁴ According to the OIR, there is currently no timeframe within which it is required to approve or disapprove filed title insurance forms.

⁵ Section 627.782, F.S.

⁶ Section 627.783, F.S.

⁷ Section 627.786, F.S.

⁸ Section 627.782(8), F.S.

Title insurance agencies must apply for and be licensed by the DFS, and are separately appointed⁹ by each title insurer they represent.

To be licensed as a title insurance agent, a person must qualify for and pass a written examination given by the DFS. The examination must test the applicant's ability, competence, and knowledge of title insurance and real property transactions and the duties and responsibilities of licensees. In addition to title insurance, topics to be covered on the test include abstracting, title searches, examination of title, closing procedures, and escrow handling.

Prior to taking the test, an applicant must complete 40 hours of classroom work in title insurance in the 4 years immediately preceding the application date, or have had 12 months experience working in the title insurance industry as a substantially full-time employee. Licensed title insurance agents are required to take 10 hours of continuing education courses every 2 years¹⁰ on any insurance products sold in Florida, and must be separately appointed by each insurer they represent.

Effect of the Bill

The bill makes changes to title insurance regulation as follows.

Title Insurance Forms

The bill requires OIR to approve or disapprove filed title insurance forms within 180 days of receipt. (Currently, there are no timeframes within which filed forms must be approved or disapproved.) When approving a form, the OIR must determine if the current rate applies or if the coverages require rulemaking. To prevent a competitive advantage to an insurer that has received approval of a filed form, the OIR is required to expeditiously approve forms filed by other insurers that contain identical coverages, rates, and approved deviations as the approved form.

Submission of Data to the OIR

Title insurers, their direct or retail businesses in the state, and title agencies will be required to submit to the OIR, on or before March 31 of each year, revenue, loss, and expense data for the most recently concluded year that are determined necessary to assist in the analysis of premium rates, title search costs, and the condition of the Florida title insurance industry. The Financial Services Commission is authorized to adopt rules to assist in data analysis and collection. Failure to submit the required data timely to OIR will constitute grounds for DFS to take disciplinary action against the licensed or appointment of the title insurance agent or agency. Possible sanctions include suspension or revocation of a license or appointment. The bill creates a safe harbor for non-compliance if the data reporting rule is subject to a rule challenge under s. 120.56, F.S.,¹¹ contesting the form or substance of the data that must be submitted.

Separate Escrow Account for Specified Funds Held by Attorneys

Attorneys who serve as title insurance or real estate settlement agents will be required to deposit and maintain funds received in connection with such transactions into a separate trust account, unless maintaining funds in the separate account for a particular client would violate rules of the Florida Bar. Attorneys are required to allow insurers for whom they hold funds to audit the separate account.

Continuing Education Requirements for Title Insurance Agents

While the number of continuing education (CE) hours title insurance agents must complete every 2 years remains unchanged (10 hours), the bill requires that the credits be earned in title insurance and

⁹ An appointment is the authority given by an insurer to a licensee to transact insurance on its behalf.

¹⁰ Section 626.2815(3)(d), F.S.

¹¹ The section of the Administrative Procedure Act (APA) under which a party may challenge a rule as an invalid exercise of delegated authority.

escrow management courses specific to Florida, and which have been approved by the DFS. At least 1.5 of these hours must be in ethics, rules, or compliance with state and federal regulations relating to title insurance and closing services.

B. SECTION DIRECTORY:

Section 1. Amends s. 626.2815, F.S., to revise continuing education requirements for title insurance agents.

Section 2. Amends s. 626.8437, F.S., to require the Department of Financial Services to deny, suspend or revoke the authority of title insurance agents and agencies that do not timely submit annual data to the OIR.

Section 3. Amends s. 626.8473, F.S., to require attorneys who serve as title or real estate settlement agents to deposit funds received in connection with these transactions in a separate account, unless such deposit as to a particular client would violate rules of the Florida Bar.

Section 4. Amends s. 627.777, F.S., relating to approval or disapproval of title insurance forms filed with the OIR.

Section 5. Amends s. 627.782, F.S., to require title insurers, their affiliated businesses in Florida, and title agents to submit certain financial data annually to the OIR; mandates penalties for failure to timely submit required data.

Section 6. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring title insurers to annually submit data for analysis to the OIR, establishing timeframes within which filed forms must be approved or disapproved, and requiring a determination of whether current rates apply to newly approved forms, will allow the title insurance industry to be more responsive to changes in the title insurance market and ensure proper review of premium charges.

Title insurers and title agencies may have to invest in technology and expand the programming capacities of their current computer systems to collect and provide the OIR with data based upon the bill's requirement for rulemaking by the Financial Services Commission. As it is likely that the regulatory

cost of such rule will exceed \$1 million in the aggregate over 5 years, the OIR will be required to submit the rule to the Legislature for ratification before it takes effect pursuant to s. 120.541(3), F.S.

D. FISCAL COMMENTS:

See comments in Section II.C.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill directs the Financial Services Commission to promulgate rules governing the submission and collection of certain financial data from title insurers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill makes failure to timely submit certain financial data a violation of the statute for which DFS may impose sanctions against an applicant, licensee, or appointee. However, if the rule establishing the form and type of data to be reported is subject to a pending challenge the reporting requirement apparently would not apply. By attempting to provide a safe harbor from sanctions, the bill creates uncertainty as to how this exception would be applied. The bill could provide that the reporting requirement would be suspended only for the party who files a proper rule challenge until the entry of a final order on the petition.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to title insurance; amending s.
 3 626.2815, F.S.; specifying continuing education
 4 requirements for title insurance agents; amending s.
 5 626.8437, F.S.; specifying additional grounds to deny,
 6 suspend, revoke, or refuse to renew or continue the
 7 license or appointment of a title insurance agent or
 8 agency; amending s. 626.8473, F.S.; requiring an
 9 attorney serving as a title or real estate settlement
 10 agent to deposit and maintain certain funds in a
 11 separate trust account and permit the account to be
 12 audited by the applicable title insurer, unless
 13 prohibited by the rules of The Florida Bar; amending
 14 s. 627.777, F.S.; providing procedures and
 15 requirements relating to the approval or disapproval
 16 of title insurance forms by the Office of Insurance
 17 Regulation; amending s. 627.782, F.S.; requiring title
 18 insurance agencies and certain insurers to submit
 19 specified information to the office to assist in the
 20 analysis of title insurance premium rates, title
 21 search costs, and the condition of the title insurance
 22 industry; requiring the Financial Services Commission
 23 to adopt rules; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:
 26

27 Section 1. Paragraph (d) of subsection (3) of section
 28 626.2815, Florida Statutes, is amended, and paragraph (1) is
 29 added to that subsection, to read:

30 626.2815 Continuing education required; application;
 31 exceptions; requirements; penalties.—

32 (3)

33 (d) Any person who holds a license as a customer
 34 representative, limited customer representative, ~~title agent,~~
 35 motor vehicle physical damage and mechanical breakdown insurance
 36 agent, crop or hail and multiple-peril crop insurance agent, or
 37 as an industrial fire insurance or burglary insurance agent and
 38 who is not a licensed life or health insurance agent, must ~~shall~~
 39 ~~be required to~~ complete 10 hours of continuing education courses
 40 every 2 years.

41 (1) Any person who holds a license as a title insurance
 42 agent must complete a minimum of 10 hours of continuing
 43 education courses every 2 years in title insurance and escrow
 44 management specific to this state and approved by the
 45 department, which shall include at least 1.5 hours of continuing
 46 education on the subject matter of ethics, rules, or compliance
 47 with state and federal regulations relating to title insurance
 48 and closing services.

49 Section 2. Subsection (11) is added to section 626.8437,
 50 Florida Statutes, to read:

51 626.8437 Grounds for denial, suspension, revocation, or
 52 refusal to renew license or appointment.—The department shall
 53 deny, suspend, revoke, or refuse to renew or continue the
 54 license or appointment of any title insurance agent or agency,

55 and it shall suspend or revoke the eligibility to hold a license
 56 or appointment of such person, if it finds that as to the
 57 applicant, licensee, appointee, or any principal thereof, any
 58 one or more of the following grounds exist:

59 (11) Failure to timely submit data as required by s.
 60 627.782, unless a rule challenge has been filed pursuant to s.
 61 120.56 as to the form or substance of data to be provided.

62 Section 3. Subsection (8) is added to section 626.8473,
 63 Florida Statutes, to read:

64 626.8473 Escrow; trust fund.—

65 (8) An attorney shall deposit and maintain all funds
 66 received in connection with transactions in which the attorney
 67 is serving as a title or real estate settlement agent into a
 68 separate trust account that is maintained exclusively for funds
 69 received in connection with such transactions and permit the
 70 account to be audited by its title insurers, unless maintaining
 71 funds in the separate account for a particular client would
 72 violate applicable rules of The Florida Bar.

73 Section 4. Section 627.777, Florida Statutes, is amended
 74 to read:

75 627.777 Approval of forms.—

76 (1) A title insurer may not issue or agree to issue any
 77 form of title insurance commitment, title insurance policy,
 78 other contract of title insurance, or related form until it is
 79 filed with and approved by the office. The office may not
 80 disapprove a title guarantee or policy form on the ground that
 81 it has on it a blank form for an attorney's opinion on the
 82 title.

83 (2) The office shall approve or disapprove a form filed
 84 for approval within 180 days after receipt.

85 (3) When the office approves any form, it shall determine
 86 if the current rate in effect applies or if the coverages
 87 require the adoption of a rule pursuant to s. 627.782.

88 (4) The office may revoke approval of any form after
 89 providing 180 days' notice to the title insurer.

90 (5) An insurer may not achieve a competitive advantage
 91 over any other insurer, agency, or agent as to rates or forms.
 92 If a form or rate is approved for an insurer, the office shall
 93 expeditiously approve the forms of other insurers who apply for
 94 approval if those forms contain identical coverages, rates, and
 95 deviations which have been approved under s. 627.783.

96 Section 5. Subsection (8) of section 627.782, Florida
 97 Statutes, is amended to read:

98 627.782 Adoption of rates.—

99 (8) Each title insurance agency and insurer licensed to do
 100 business in this state and each insurer's direct or retail
 101 business in this state shall maintain and submit information,
 102 including revenue, loss, and expense data, as the office
 103 determines necessary to assist in the analysis of title
 104 insurance premium rates, title search costs, and the condition
 105 of the title insurance industry in this state. This information
 106 must be transmitted to the office annually by March 31 of the
 107 year after the reporting year. The commission shall adopt rules
 108 to assist in the collection and analysis of the data from the
 109 title insurance industry. ~~The commission may, by rule, require~~
 110 ~~licensees under this part to annually submit statistical~~

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111 ~~information, including loss and expense data, as the department~~
112 ~~determines to be necessary to analyze premium rates, retention~~
113 ~~rates, and the condition of the title insurance industry.~~

114 Section 6. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1191 Parent Empowerment in Education
SPONSOR(S): K-20 Innovation Subcommittee, Bileca and others
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1718

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Rows include K-20 Innovation Subcommittee, Rulemaking & Regulation Subcommittee, PreK-12 Appropriations Subcommittee, and Education Committee.

SUMMARY ANALYSIS

The bill enables parents, by petitioning the school district, to request implementation of a parent-selected turnaround option when a school does not sufficiently improve in the initial year of implementing a district-selected turnaround option.

The district school board may adopt the turnaround option selected by parents or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the State Board of Education.

Florida's system of school improvement provides the lowest performing schools with the most comprehensive interventions. If such a school does not sufficiently improve during the first two years of intervention, the school district must implement a school turnaround option at the beginning of the next school year.

The bill also adds several new requirements related to the assignment of students to classroom teachers. The bill prohibits school districts from assigning a student in consecutive school years to a classroom teacher with an annual performance evaluation rating of unsatisfactory or needs improvement;

Florida law does not prohibit school districts from assigning a student in consecutive years to a low-performing teacher. School districts must notify each parent when his or her child is assigned to an out-of-field teacher or chronically low performing teacher;

The bill does not have a fiscal impact on state or local governments.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Improvement and Intervention

Florida's system of school improvement interventions is known as "differentiated accountability." Low-performing schools are categorized according to the causes and severity of low student achievement. A school's categorization determines the type and intensity of school improvement interventions and whether interventions are directed by the school, school district, or state.¹ The lowest performing schools receive the most comprehensive interventions.² If such a school does not sufficiently improve during the first year of intervention, the school district must submit a plan to the State Board of Education proposing to implement a school turnaround option at the beginning of the next school year. The school district may select one of the following turnaround options:

- Convert the school to a district-managed turnaround school;
- Reassign students to another school and monitor the progress of each reassigned student;
- Close the school and reopen it as one or more charter schools, each with a governing board with a demonstrated record of effectiveness; or
- Contract with an outside entity that has a demonstrated record of effectiveness to operate the school.

The turnaround option must be implemented if the school does not sufficiently improve during that school year.³ If the school does not sufficiently improve during the first year of implementing the turnaround option, the school district must submit another plan for implementing a different option at the beginning of the next school year. The plan is subject to state board approval. In considering the plan, the state board has discretion to allow the school district to continue implementing the existing turnaround option, if it finds that the school is likely to improve with additional time. No process exists that requires school districts to consider implementation of a parent-selected turnaround option.⁴

Effect of Proposed Changes

The bill enables parents, by petition, to request that the school district implement a parent-selected turnaround option if a school in the lowest performing category does not improve performance in the initial year of implementing a turnaround option selected by the school district. The turnaround option requested by parents must be considered for implementation by the district school board at a publicly noticed meeting if the petition is signed and dated by a majority of the parents⁵ of eligible students, i.e., students enrolled in the school or students who are scheduled for assignment to the school in the following school year.

Within 30 days of receiving notice from the Department of Education (DOE) that the school did not improve performance under the preceding turnaround option, each school district must notify parents that they may submit a petition requesting that a parent-selected turnaround option be implemented for the school in the following school year. The notice by the school district must include:

- A description of each available turnaround option and the process for implementing turnaround options;

¹ Section 1008.33(3)(b) and (4), F.S.; rule 6A-1.099811(3), F.A.C.

² Section 1008.33(2)(b) and (4), F.S.

³ Section 1008.33(5)(a), F.S.; rule 6A-1.099811(8)(b), F.A.C.

⁴ Section 1008.33(5)(b), F.S.

⁵ The law defines "parent" as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. Section 1000.21(5), F.S.

- The date and location for submission of the petition and the publicly noticed district school board meeting at which the petition will be considered; and
- School district contact information for assistance with questions.

Only one parent per eligible student may sign the petition. One signature may be given by the parent for each child who is an eligible student. A parent must date the petition on the day it is signed and identify the eligible student on the petition. If the school district chooses to verify signatures on the petition, the district must use existing student enrollment documentation or other records containing parent signatures. A majority is achieved when signatures are collected for more than one-half of the parents who are eligible to sign the petition. The petition must be submitted before the school district selects a turnaround option. The bill does not specify whether the parents "eligible to sign the petition" are limited to one per eligible student. The bill provides no provision respecting a parent of more than one child who is an eligible student, nor to a student who has step-siblings in the same school. Such factors create uncertainty regarding how many parents are to be counted and whether or how all of them may sign or object to the petition.

The district school board may adopt the parent-selected turnaround option or a different option selected by the school board. If the district school board does not adopt the parent-selected option, it must include that option with the implementation plan submitted to the state board. If the state board determines that the turnaround option selected by parents is more likely to improve the academic performance of students at the school, the school board must resubmit a plan implementing the parent-selected option.

The bill enables parents of students attending a low-performing school to play a larger role in improving the school's performance. Likewise, the petition process may result in increased parental involvement in school affairs, which research identifies as a key component of school improvement.⁶

The bill is unclear whether parents may sign multiple petitions or how long the petitions are to operate. However, in light of the relevant statutes, it may be inferred that the petition affects only one year's process in adopting a school improvement plan.

Educator Performance and Student Assignments

Research indicates that teacher effectiveness is the most important school-level variable influencing student learning. Students who are taught by ineffective teachers perform at much lower levels than students demonstrating comparable ability taught by high-performing teachers. Students taught by an ineffective teacher for even one year experience long-term negative impacts on achievement.⁷

In Florida, the performance of classroom teachers⁸ is annually evaluated based upon student performance and instructional practice criteria. Student performance must comprise at least 50 percent of the performance evaluation and must be measured in terms of student learning growth on statewide

⁶ The PEW Center on the States, *Engaged Families, Effective Pre-K: State Policies that Bolster Student Success*, at 1 (June 2010), available at http://www.pewcenteronthestates.org/uploadedFiles/PkN_Family_Engagement_FINAL.pdf?n=4141; Southwest Educational Development Laboratory, *A New Wave of Evidence: The Impact of School, Family, and Community Connections on Student Achievement*, at 24 (2002), available at <http://www.sedl.org/cgi-bin/pdfexit.cgi?url=http://www.sedl.org/connections/resources/evidence.pdf> (review of research regarding parental involvement and student success).

⁷ Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement*, at 6-8 (Nov. 1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>. Sanders and Rivers found that standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years. *Id.* at 3.

⁸ Classroom teachers are a sub-set of the larger personnel class known as "instructional personnel." Instructional personnel and school administrators are evaluated annually. Instructional personnel also include guidance counselors, social workers, career specialists, school psychologists, librarians and media specialists, learning resource specialists, instructional trainers, adjunct educators, and education paraprofessionals. Section 1012.01(2)(a)-(e), F.S. School administrators are school principals, school directors, career center directors, and assistant principals. Section 1012.01(3)(a), F.S.

assessments or, for subjects and grades not tested by statewide assessments, school district-selected assessments.⁹ Measurement of student learning growth for classroom teachers must be based upon students assigned to the employee over the course of three school years.¹⁰

Instructional practice criteria for classroom teachers are based upon the state board adopted Florida Educator Accomplished Practices (FEAP). The FEAPs include such essential teaching skills as subject matter knowledge, classroom management, and lesson planning and delivery. These criteria are primarily evaluated through classroom observation.¹¹

Each classroom teacher is assigned one of four performance ratings:

- Highly effective;
- Effective;
- Needs improvement, or for classroom teachers in their first three years of employment who need improvement, developing; or
- Unsatisfactory.

Performance evaluation results must be used as a basis for professional development, compensation, retention, transfers, and promotions. The law authorizes a school principal to refuse the placement or transfer of a classroom teacher who is not rated effective or highly effective. However, the law does not prohibit a school district from assigning a student in consecutive school years to a classroom teacher rated unsatisfactory or needs improvement.¹²

Information regarding educator performance evaluations is provided to the public annually. School districts must annually report to DOE educator performance evaluation ratings. DOE must annually post on its website the percentage of classroom teachers, other instructional personnel, and school administrators receiving each performance rating by school district and school.¹³

Additionally, school districts must annually report to parents the fact that their child is assigned to a classroom teacher whose performance evaluations indicate chronic low-performance, i.e., teachers who have two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.¹⁴ School districts are not expressly required to provide a teacher's performance evaluation to parents who request it; however, such evaluations become public records after one year, at which time the evaluation must be furnished to any parent or member of the public who requests it.¹⁵

Each district school board must adopt a plan for assisting teachers teaching subject matter outside their certification area, minor field of study, or a subject area in which the teacher has demonstrated sufficient expertise. The plan must provide such teachers with priority consideration in professional development activities and require their participation in a certification or staff development program that addresses the competencies required for the assigned duties. The assistance plan must include duties of administrative personnel and other instructional personnel for assisting out-of-field teachers. The law

⁹ Section 1012.34(3)(a) and (7), F.S. Newly hired teachers must be evaluated at least twice in the first year of teaching. Section 1012.34(3)(a), F.S. School districts may request approval by the Department of Education to use a student achievement measure or a combination of student learning growth and achievement when such measures are appropriate. Likewise, districts may request approval to determine appropriate measures based upon course characteristics and personnel assignments. Section 1012.34(2)(d) and (7)(c)-(d), F.S.

¹⁰ Section 1012.34(3)(a)1.a.-b., F.S. Exceptions apply based upon personnel classification or availability of data. *Id.*

¹¹ Section 1012.34(3)(a), F.S.

¹² Sections 1012.22(1)(e) and 1012.34(2)(b), F.S.

¹³ Section 1012.34(1)(c), F.S.

¹⁴ Section 1012.2315(5)(b), F.S.

¹⁵ Section 1012.31(3)(a)2., F.S.

requires each district school board to notify in writing the parents of students who are assigned to an out-of-field teacher.¹⁶

Effect of Proposed Changes

The bill authorizes a parent to request from the school district the performance evaluation of any classroom teacher assigned to his or her child. Current law requiring that educator performance evaluations remain confidential until the end of the school year immediately following the school year in which the evaluation was conducted applies to such requests.¹⁷

Additionally, the bill expands parental notification regarding a child's assignment to classroom teachers teaching out-of-field to also require that the parent of the child be informed of the availability of virtual instruction delivered by an in-field teacher with an annual performance evaluation rating of effective or highly effective. Likewise, notification sent to parents regarding a child's assignment to a classroom teacher whose performance evaluations indicate chronic low-performance¹⁸ must also inform the parent that virtual instruction from a teacher with an annual performance evaluation rating of effective or highly effective is available. These changes will better inform parents of their options when their child is assigned to out-of-field or low-performing teachers.

The bill adds provisions prohibiting a school district from assigning a student in consecutive school years to a classroom teacher of the same subject who is evaluated as unsatisfactory or needs improvement. This will decrease the likelihood of long-term negative impacts on a student's achievement resulting from repeated assignments to low-performing teachers.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.10, F.S., relating to Commissioner of Education powers and duties; corrects a cross reference.

Section 2. Amends s. 1002.20, F.S., relating to K-12 student and parent rights; authorizes parents to petition the school district to implement of a school turnaround option; authorizes a parent to request from the school district the performance evaluation of a classroom teacher assigned to his or her child; and requires that parents of students assigned to an out-of-field or chronically low-performing teacher be informed of the availability of virtual instruction delivered by an in-field, high-performing teacher.

Section 3. Amends s. 1002.32, F.S., relating to developmental research lab schools; corrects a cross-reference.

Section 4. Creates s. 1003.07, F.S., relating to parent empowerment; establishes a petition process enabling parents to request implementation of a school turnaround option; provides for consideration of the petition by the school board; specifies requirements regarding the petition process; provides for review of proposed turnaround options by the state board.

Section 5. Amends s. 1008.33, F.S., authority to enforce public school improvement; authorizes parents to petition the school district to implement of a school turnaround option.

Section 6. Amends s. 1012.2315, F.S., relating to assignment of teachers; authorizes a parent to request from the school district the performance evaluation of a classroom teacher assigned to his or her child; requiring parental notification regarding assignment of a student to a low-performing or out-of-field teacher; requires that parents of students assigned to an out-of-field or chronically low-performing teacher be informed of the availability of virtual instruction delivered by an in-field, high-performing teacher; and prohibits school districts from assigning a student in consecutive school years to a classroom teacher with an annual performance evaluation rating of unsatisfactory or needs improvement.

Section 7. Repeals s. 1012.42, F.S., relating to teacher teaching out of field.

¹⁶ Section 1012.42(1) and (2), F.S. This reporting requirement applies to teachers who are teaching subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise. Section 1012.42(2), F.S.

¹⁷ Section 1012.31(3)(a)2., F.S.

¹⁸ This reporting requirement applies to a classroom teacher who has two consecutive unsatisfactory performance evaluations, two unsatisfactory evaluations in a three-year period, or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory. Section 1012.2315(5)(b), F.S.

Section 8. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules establishing a model parent petition format, petition submission process, standards for verifying signatures, and timelines for school board consideration of a petition at a publicly noticed meeting.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2012, the K-20 Innovation Subcommittee reported the proposed committee substitute (PCS) for HB 1191 favorably as a committee substitute. The PCS differs from the house bill in the following ways:

- Limits application of the parent petition process to schools that must implement a different turnaround option after the previously implemented option fails to improve the school's performance. The bill allowed a petition to be filed in the initial year in which turnaround options are required for a school.
- Requires the school board to consider the turnaround option selected by parents at a publicly noticed meeting; however, the school board has discretion to adopt or reject the parent-selected option. The bill required the school board to adopt the parent-selected turnaround option.
- Clarifies the petition process, including which parents may sign the petition and the number of signatures that constitute a majority of parents.
- Requires notification of parents of students assigned to out-of-field teachers that virtual instruction is available from an in-field teacher to also specify that the teacher has a performance evaluation rating of effective or highly effective.

1 A bill to be entitled
2 An act relating to parent empowerment in education;
3 amending s. 1001.10, F.S.; conforming a cross-
4 reference; amending s. 1002.20, F.S.; authorizing
5 parents of students who are assigned to certain
6 underperforming public schools to submit a petition to
7 the school district requesting implementation of a
8 school turnaround option; requiring a school district,
9 upon request, to provide a parent with a performance
10 evaluation for each classroom teacher assigned to his
11 or her child; requiring notification to the parent of
12 each student who is assigned to a classroom teacher
13 who is teaching out-of-field or who has received
14 unsatisfactory performance evaluations and of the
15 availability of virtual instruction; amending s.
16 1002.32, F.S.; correcting a cross-reference; creating
17 s. 1003.07, F.S., the Parent Empowerment Act;
18 requiring each school district to notify parents of
19 students attending a lowest-performing school that has
20 been unable to improve performance after
21 implementation of a school turnaround option;
22 authorizing parents to submit a petition requesting
23 implementation of an available school turnaround
24 option; providing requirements for a petition and its
25 consideration and adoption by the district school
26 board; requiring rulemaking; amending s. 1008.33,
27 F.S.; identifying the options for improving a school
28 identified in the lowest-performing category as school

29 turnaround options; authorizing parents to submit a
 30 petition to the school district to implement a
 31 specified school turnaround option; amending s.
 32 1012.2315, F.S.; requiring that each district school
 33 board adopt rules to implement an assistance plan for
 34 out-of-field classroom teachers and requiring their
 35 participation in certain programs; requiring that the
 36 school district annually notify the parent of each
 37 student assigned to an out-of-field classroom teacher
 38 or an underperforming classroom teacher and of the
 39 availability of virtual instruction; requiring that a
 40 school district, upon request, provide a parent with
 41 the performance evaluation of each classroom teacher
 42 assigned to his or her child; prohibiting the
 43 consecutive assignment of students to classroom
 44 teachers who receive certain performance evaluations;
 45 repealing s. 1012.42, F.S., relating to teachers
 46 teaching out-of-field; providing an effective date.

47

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

49

50 Section 1. Subsection (3) of section 1001.10, Florida
 51 Statutes, is amended to read:

52 1001.10 Commissioner of Education; general powers and
 53 duties.—

54 (3) To facilitate innovative practices and ~~to allow~~ local
 55 selection of educational methods, the State Board of Education
 56 may authorize the commissioner to waive, upon the request of a

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57 | district school board, state board ~~of Education~~ rules that
 58 | relate to ~~district~~ school instruction and ~~school~~ operations,
 59 | except those rules pertaining to civil rights, and student
 60 | health, safety, and welfare. The Commissioner of Education is
 61 | not authorized to grant waivers for any provisions in rule
 62 | pertaining to the allocation and appropriation of state and
 63 | local funds for public education; the election, compensation,
 64 | and organization of school board members and superintendents;
 65 | graduation and state accountability standards; financial
 66 | reporting requirements; reporting of out-of-field teaching
 67 | assignments under s. 1012.2315(5) ~~1012.42~~; public meetings;
 68 | public records; or due process hearings governed by chapter 120.
 69 | No later than January 1 of each year, the commissioner shall
 70 | report to the Legislature and the State Board of Education all
 71 | approved waiver requests in the preceding year.

72 | Section 2. Paragraph (d) is added to subsection (21) of
 73 | section 1002.20, Florida Statutes, and subsections (24) and (25)
 74 | are added to that section, to read:

75 | 1002.20 K-12 student and parent rights.—Parents of public
 76 | school students must receive accurate and timely information
 77 | regarding their child's academic progress and must be informed
 78 | of ways they can help their child to succeed in school. K-12
 79 | students and their parents are afforded numerous statutory
 80 | rights including, but not limited to, the following:

81 | (21) PARENTAL INPUT AND MEETINGS.—

82 | (d) Parent empowerment.—Parents of students who are
 83 | assigned to a public school that does not improve performance
 84 | following implementation of a school turnaround option under s.

85 1008.33(5)(a) may submit a petition to the school district
 86 requesting implementation of a school turnaround option pursuant
 87 to s. 1003.07.

88 (24) PERSONNEL EVALUATION REPORTS.—Upon request by the
 89 parent of a public school student, the school district must
 90 provide the parent with the performance evaluation for each
 91 classroom teacher assigned to his or her child, pursuant to s.
 92 1012.31.

93 (25) ASSIGNMENT TO TEACHERS.—

94 (a) Each school district shall annually notify the parent
 95 of each public school student assigned to a classroom teacher
 96 who is teaching out-of-field regarding such assignment. The
 97 notification must inform the parent that virtual instruction
 98 from a certified in-field teacher with an annual performance
 99 evaluation rating of effective or highly effective is available
 100 pursuant to s. 1012.2315(5).

101 (b) When a student is assigned to a classroom teacher who
 102 has received two consecutive annual performance evaluation
 103 ratings of unsatisfactory, two annual performance evaluation
 104 ratings of unsatisfactory within a 3-year period, or three
 105 consecutive annual performance evaluation ratings of needs
 106 improvement or a combination of needs improvement and
 107 unsatisfactory under s. 1012.34, the school district shall
 108 notify the parent regarding the performance evaluation rating of
 109 the classroom teacher. The notification must inform the parent
 110 that virtual instruction from a teacher with an annual
 111 performance evaluation rating of effective or highly effective
 112 is available pursuant to s. 1012.2315(7).

113 Section 3. Paragraph (c) of subsection (7) of section
 114 1002.32, Florida Statutes, is amended to read:

115 1002.32 Developmental research (laboratory) schools.—

116 (7) PERSONNEL.—

117 (c) Lab school faculty members shall meet the
 118 certification requirements of s. ~~ss.~~ 1012.32 and 1012.42.

119 Section 4. Section 1003.07, Florida Statutes, is created
 120 to read:

121 1003.07 Parent empowerment.—

122 (1) This section may be cited as the "Parent Empowerment
 123 Act."

124 (2) Each school district must provide written notification
 125 to the parents of eligible students, as defined in paragraph

126 (3)(b), when a public school has been unable to improve
 127 performance following implementation of a school turnaround
 128 option and must implement a different option, as required under

129 s. 1008.33(5). The written notification shall inform parents
 130 that they may, by petition, request implementation of a school
 131 turnaround option by the school in the following school year.

132 The notification shall be provided to parents within 30 calendar
 133 days after the school district receives notice from the

134 Department of Education that the school must implement a
 135 different school turnaround option. The notification by the
 136 school district shall include:

137 (a) A description of each school turnaround option
 138 available for selection under s. 1008.33(5)(a);

139 (b) A description of the process for implementing school
 140 turnaround options, including the date by which the school

141 district must submit its implementation plan to the State Board
 142 of Education;

143 (c) The date and location for submission of the petition;

144 (d) The date and location of the publicly noticed district
 145 school board meeting, required under paragraph (4) (a), at which
 146 the school board will consider the petition; and

147 (e) School district contact information for additional
 148 questions.

149 (3) (a) Prior to the school district's selection and
 150 implementation of a different school turnaround option for the
 151 following school year, parents may submit a petition selecting
 152 an available school turnaround option, as described in the
 153 notification provided pursuant to paragraph (2) (a), for
 154 consideration by the district school board.

155 (b) Only one parent per eligible student may sign the
 156 petition. An eligible student is a student enrolled in the
 157 school in which the school turnaround option will be implemented
 158 or a student who is scheduled, the following school year, for
 159 assignment to the school in which the school turnaround option
 160 will be implemented, according to the district school board's
 161 enrollment policies.

162 (c) A parent must date the petition on the day it is
 163 signed and identify the eligible student on the petition.

164 (d) If the school district chooses to verify signatures on
 165 the petition, the district shall use existing student enrollment
 166 documentation or other records containing parent signatures.

167 (4) (a) The school turnaround option selected by parents
 168 must be considered for implementation by the district school

169 board at a publicly noticed school board meeting if the petition
 170 is signed and dated by a majority of the parents of eligible
 171 students. A majority is more than one-half of the parents who
 172 are eligible to sign the petition pursuant to paragraph (3)(b).

173 (b) The district school board may adopt the school
 174 turnaround option selected by parents or a different school
 175 turnaround option selected by the school board. If the district
 176 school board does not adopt the school turnaround option
 177 selected by parents, it must include that option with the
 178 implementation plan submitted to the State Board of Education
 179 under s. 1008.33(5)(b). If the state board determines that the
 180 school turnaround option selected by parents is more likely to
 181 improve the academic performance of students at the school, it
 182 shall remand the district school board's implementation plan to
 183 the school board. The district school board shall submit to the
 184 state board an implementation plan for the school turnaround
 185 option selected by parents.

186 (5) The State Board of Education shall adopt rules
 187 pursuant to ss. 120.536(1) and 120.54 to establish a model
 188 petition format, petition submission process, standards for
 189 verifying signatures, and timelines for district school board
 190 consideration of a petition at a publicly noticed meeting.

191 Section 5. Subsection (5) of section 1008.33, Florida
 192 Statutes, is amended to read:

193 1008.33 Authority to enforce public school improvement.—

194 (5)(a) In the school year after a school is initially
 195 identified as a school in the lowest-performing category, the
 196 school district must submit a plan, which is subject to approval

197 | by the State Board of Education, for implementing one of the
 198 | following school turnaround options at the beginning of the next
 199 | school year. The plan must be implemented unless the school
 200 | moves from the lowest-performing category:

201 | 1. Convert the school to a district-managed turnaround
 202 | school by means that include implementing a turnaround plan
 203 | approved by the Commissioner of Education which shall become the
 204 | school's improvement plan;

205 | 2. Reassign students to another school and monitor the
 206 | progress of each reassigned student;

207 | 3. Close the school and reopen the school as one or more
 208 | charter schools, each with a governing board that has a
 209 | demonstrated record of effectiveness; or

210 | 4. Contract with an outside entity that has a demonstrated
 211 | record of effectiveness to operate the school.

212 | (b) If a school does not move from the lowest-performing
 213 | category during the initial year of implementing one of the
 214 | school turnaround options in paragraph (a), the school district
 215 | must submit a plan, which is subject to approval by the State
 216 | Board of Education, for implementing a different option in
 217 | paragraph (a) at the beginning of the next school year, unless
 218 | the State Board of Education determines that the school is
 219 | likely to move from the lowest-performing category if additional
 220 | time is provided to implement intervention and support
 221 | strategies. The State Board of Education shall determine whether
 222 | a school district may continue to implement a school turnaround
 223 | ~~an~~ option beyond 1 year while a school remains in the lowest-
 224 | performing category. Parents of students who are assigned to a

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2012

225 public school that is required to implement a different school
 226 turnaround option may petition the school district to implement
 227 a school turnaround option selected by the parents pursuant to
 228 s. 1003.07.

229 Section 6. Section 1012.2315, Florida Statutes, is amended
 230 to read:

231 1012.2315 Assignment of teachers.—

232 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
 233 disparities between teachers assigned to teach in a majority of
 234 schools that do not need improvement and schools that do need
 235 improvement pursuant to s. 1008.33. The disparities may be found
 236 in the assignment of temporarily certified teachers, teachers in
 237 need of improvement, and out-of-field teachers and in the
 238 performance of the students. It is the intent of the Legislature
 239 that district school boards have flexibility through the
 240 collective bargaining process to assign teachers more equitably
 241 across the schools in the district.

242 (2) ASSIGNMENT TO SCHOOLS CATEGORIZED AS IN NEED OF
 243 IMPROVEMENT.—School districts may not assign a higher percentage
 244 than the school district average of temporarily certified
 245 teachers, teachers in need of improvement, or out-of-field
 246 teachers to schools in one of the three lowest-performing
 247 categories under s. 1008.33(3)(b). Each school district shall
 248 annually certify to the Commissioner of Education that this
 249 requirement has been met. If the commissioner determines that a
 250 school district is not in compliance with this subsection, the
 251 State Board of Education shall be notified and shall take action
 252 pursuant to s. 1008.32 in the next regularly scheduled meeting

253 to require compliance.

254 (3) SALARY INCENTIVES.—District school boards may ~~are~~
 255 ~~authorized to~~ provide salary incentives to meet the requirement
 256 of subsection (2). A district school board may not sign a
 257 collective bargaining agreement that precludes the school
 258 district from providing sufficient incentives to meet this
 259 requirement.

260 (4) COLLECTIVE BARGAINING.—Notwithstanding provisions of
 261 chapter 447 relating to district school board collective
 262 bargaining, collective bargaining provisions may not preclude a
 263 school district from providing incentives to high-quality
 264 teachers and assigning such teachers to low-performing schools.

265 (5) ASSISTANCE TO OUT-OF-FIELD TEACHERS.—

266 (a) Each district school board shall adopt rules for
 267 implementing an assistance plan for each classroom teacher who
 268 is teaching out-of-field. The assistance plan must provide
 269 teachers who are teaching out-of-field with priority
 270 consideration in professional development activities and require
 271 such teachers to participate in a certification or staff
 272 development program that provides the competencies required for
 273 the assigned duties. The assistance plan must also include
 274 duties of administrative personnel and other instructional
 275 personnel for assisting a teacher who is teaching out-of-field
 276 in providing instructional services to students.

277 (b) The school district shall annually notify the parent
 278 of each student who is assigned to a classroom teacher who is
 279 teaching subject matter that is:

280 1. Outside the field in which the teacher is certified;

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281 2. Outside the field that was the teacher's minor field of
 282 study; or

283 3. Outside the field in which the teacher has demonstrated
 284 sufficient subject area expertise, as determined by district
 285 school board policy in the subject area to be taught.

286
 287 The notification must inform the parent that virtual instruction
 288 from a certified in-field teacher with an annual performance
 289 evaluation rating of effective or highly effective under s.
 290 1012.34 is available to his or her child through the virtual
 291 instruction options listed under s. 1002.321(4).

292 (6)-(5) REPORT.-

293 ~~(a)~~ By July 1, 2012, the Department of Education shall
 294 annually report on its website, in a manner that is accessible
 295 to the public, the performance rating data reported by district
 296 school boards under s. 1012.34. The report must include the
 297 percentage of classroom teachers, instructional personnel, and
 298 school administrators receiving each performance rating
 299 aggregated by school district and by school.

300 (7) ASSIGNMENT OF TEACHERS BASED UPON PERFORMANCE
 301 EVALUATIONS.-

302 (a)-(b) Notwithstanding ~~the provisions of~~ s.
 303 1012.31(3)(a)2., each school district shall annually notify
 304 ~~report to~~ the parent of any student who is assigned to a
 305 classroom teacher or school administrator having two consecutive
 306 annual performance evaluation ratings of unsatisfactory under s.
 307 1012.34, two annual performance evaluation ratings of
 308 unsatisfactory within a 3-year period under s. 1012.34, or three

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2012

309 consecutive annual performance evaluation ratings of needs
 310 improvement or a combination of needs improvement and
 311 unsatisfactory under s. 1012.34. The notification must inform
 312 the parent that virtual instruction from a teacher with a
 313 performance evaluation rating of highly effective or effective
 314 under s. 1012.34 is available to his or her child through the
 315 virtual instruction options listed under s. 1002.321(4).

316 (b) Upon request by the parent of a public school student,
 317 the school district shall provide the parent with the
 318 performance evaluation for each classroom teacher assigned to
 319 his or her child, pursuant to s. 1012.31.

320 (c) If a student is currently taught by a classroom
 321 teacher who receives, in that school year, a performance
 322 evaluation rating of needs improvement or unsatisfactory under
 323 s. 1012.34, the student may not be assigned the following school
 324 year to a classroom teacher, in the same subject area, who
 325 received a performance evaluation rating of needs improvement or
 326 unsatisfactory in the preceding school year.

327 Section 7. Section 1012.42, Florida Statutes, is repealed.

328 Section 8. This act shall take effect July 1, 2012.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Randolph offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 118 and 119, insert:

7 Section 4. Paragraph (b) of subsection (16) of section
8 1002.33, Florida Statutes, is amended to read:

9 1002.33 Charter schools.—

10 (16) EXEMPTION FROM STATUTES.—

11 (b) Additionally, a charter school shall be in compliance
12 with the following statutes:

13 1. Section 286.011, relating to public meetings and
14 records, public inspection, and criminal and civil penalties.

15 2. Chapter 119, relating to public records.

16 3. Section 1002.20(24) and (25), relating to K-12 student
17 and parent rights relating to personnel evaluation reports and
18 assignment to teachers.



Amendment No. 1

19 ~~4.3.~~ Section 1003.03, relating to the maximum class size,
20 except that the calculation for compliance pursuant to s.
21 1003.03 shall be the average at the school level.

22 ~~5.4.~~ Section 1012.22(1)(c), relating to compensation and
23 salary schedules.

24 6. Section 1012.2315(5) and (7), relating to assistance to
25 out-of-field teachers and assignment of teachers based upon
26 performance evaluation.

27 ~~7.5.~~ Section 1012.33(5), relating to workforce reductions.

28 ~~8.6.~~ Section 1012.335, relating to contracts with
29 instructional personnel hired on or after July 1, 2011.

30 ~~9.7.~~ Section 1012.34, relating to the substantive
31 requirements for performance evaluations for instructional
32 personnel and school administrators.

33

34

35

36

37

T I T L E A M E N D M E N T

38

Remove line 16 and insert:

39

1002.32, F.S.; correcting a cross-reference; amending s.

40

1002.33, F.S.; requiring charter schools to be in compliance

41

with provisions relating to notification to parents of teachers

42

teaching out-of-field and low-performing teachers; creating

43



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Randolph offered the following:

Amendment (with title amendment)

6 Remove lines 155-166 and insert:

7 (b) Only one eligible parent of an eligible student may
8 sign the petition. An eligible parent may sign the petition one
9 time only. An eligible parent is a parent whose signature
10 appears on an official school enrollment or emergency contact
11 document, student immunization record, or pertinent parental
12 contact information against which the signature may be verified.
13 An eligible student is a student who will be enrolled in the
14 school in which the school turnaround option will be implemented
15 or a student who is scheduled for the following school year for
16 enrollment, according to the district school board's enrollment
17 policies.

18 (c) A parent must date the petition on the day it is
19 signed and identify the eligible student on the petition.



Amendment No. 2

20 (d) The school district must certify that the petition
21 signatures meet the criteria of paragraph (4)(a) or may choose
22 to verify signatures on the petition using documents outlined in
23 paragraph (b) and certify that the petition signatures meet the
24 criteria of paragraph (4)(a). A signed petition is valid only
25 during the school year in which it is signed.

26 (e) A parent, student, or representative of an outside
27 entity may not solicit or accept anything of value to the
28 recipient, including a gift, loan, reward, promise of future
29 employment, favor, or service, based upon an understanding that
30 the petition signature would be influenced thereby. A person who
31 violates this paragraph commits a misdemeanor of the first
32 degree, punishable as provided in s. 775.082 or s. 775.083.

33 (f) It is unlawful for any person or outside entity to
34 knowingly and willfully provide invalid, misleading, or untrue
35 data or information regarding the performance results or
36 performance history of any program or school turnaround option.
37 A person who violates this paragraph commits a misdemeanor of
38 the first degree, punishable as provided in s. 775.082 or s.
39 775.083.

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41
42
43 -----
44 **T I T L E A M E N D M E N T**

45 Remove line 26 and insert:
46 board; prohibiting certain actions that may influence a petition
47 signature or provide invalid information regarding performance

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1191 (2012)

Amendment No. 2

48 results and providing penalties therefor; requiring rulemaking;

49 amending s. 1008.33,

50



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1191 (2012)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee
3 Representative Randolph offered the following:

4
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7
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9

Amendment

Remove lines 170-172 and insert:
is signed and dated by 60 percent of the eligible parents of
eligible students pursuant to paragraph (3)(b).



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Randolph offered the following:

Amendment

6 Remove line 172 and insert:

7 are eligible to sign the petition pursuant to paragraph (3)(b).
8 To rescind their selection of a school turnaround option,
9 parents shall use the petition process required under this
10 section.



Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee
3 Representative Randolph offered the following:

Amendment

6 Remove line 185 and insert:
7 option selected by parents. If the district school board or the
8 State Board of Education accepts the school turnaround option
9 selected by parents, all eligible students of eligible parents
10 who signed the petition shall be assigned to the turnaround
11 school until the student graduates or articulates to the next
12 school level.



Amendment No. 6

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Randolph offered the following:

4

5 **Amendment (with title amendment)**

6 Remove line 211 and insert:

7 record of the effectiveness to operate the school. An outside
8 entity must:

9 a. Certify that it is nonsectarian in its programs,
10 admission policies, employment practices, and operations;

11 b. Provide evidence of an administrative office located in
12 the state and require its administrative staff to be state
13 residents;

14 c. Submit to the school district a detailed plan
15 describing how the school curriculum and course content will
16 conform to the Next Generation Sunshine State Standards or the
17 common core standards;

18 d. Submit to the school district an annual financial plan
19 for each year of operation of the school for a minimum of 2



Amendment No. 6

20 years. The plan must contain anticipated fund balances based on
21 revenue projections, a spending plan based on projected revenues
22 and expenses, and a description of controls that will safeguard
23 finances and projected enrollment trends; and

24 e. Provide evidence-based demonstration of a proven track
25 record of improving student performance of a substantially
26 similar student population.

27

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31

T I T L E A M E N D M E N T

32

Remove line 29 and insert:

33

turnaround options; specifying requirements for the school

34

turnaround option of contracting with an outside entity to

35

operate the school; authorizing parents to submit a

36

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1261 State Employment
SPONSOR(S): Mayfield
TIED BILLS: IDEN./SIM. **BILLS:** SB 2084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 1 N, As CS	Naf	Williamson
2) Rulemaking & Regulation Subcommittee		Miller <i>EMM</i>	Rubottom <i>DJR</i>
3) Appropriations Committee			
4) State Affairs Committee			

SUMMARY ANALYSIS

This bill makes substantive and organizational changes to the statutes governing public employees and officers.

The bill makes changes to improve efficiency and to clean up statutory language. Those changes include, but are not limited to:

- Reorganization of statutory provisions;
- Changes in terminology;
- Removal of obsolete provisions and references; and
- Streamlining of the rule development and modification process.

Substantive changes include, but are not limited to:

- Authorization of the Department of Management Services to charge a state governmental entity outside of the state personnel system for use of services from the People First system;
- Revision of language pertaining to state employee furloughs to allow the provision to be used;
- Creation of a monetary cap on bonus payments to an employee in a fiscal year; and
- Removal of the annual hourly cap for other-personal-services employees.

The bill requires the Department of Management Services to provide a proposal to restructure and modernize the leave benefits of state personnel by a date certain.

The bill provides an effective date of July 1, 2012.

The bill may have an indeterminate fiscal impact to state government due to the changes in bonuses, telework, and People First, and due to streamlining processes.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

STATUTES GOVERNING PUBLIC EMPLOYEES AND OFFICERS, GENERALLY

Background: Chapter 110, F.S., State Employment

General Provisions

Part I of chapter 110, F.S., consists of general provisions applying to state employment, such as those relating to:

- Education and training;
- Employee wage deductions;
- Paid holidays;
- Sick leave pool;
- Terminal pay for accumulated sick leave;
- Health insurance;
- Meritorious service awards program;
- Child care services;
- Other-personal-services temporary employment; and
- The Florida State Employees Charitable Campaign contribution program.

Career Service System

Florida has a civil service system for public employees not deemed to be executive or managerial. The State Constitution mandates such a system be created by the Legislature¹ and authorizes a system for the collective bargaining of wages, hours, and terms of conditions of employment by public employees with their public employer.²

Part II of chapter 110, F.S., establishes the Career Service System. It requires the Department of Management Services (DMS) to:

- Develop and maintain a uniform classification and equitable pay plan applicable to all positions in the Career Service System;
- Determine guidelines for employee recruitment and selection to be used by employing agencies;
- Adopt rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees; and
- Develop uniform rules, in consultation with affected agencies and pursuant to the approval of the Administration Commission, regarding employee appointment, promotion, demotion, reassignment, separation, status, attendance, and leave.³

The DMS, however, is prohibited from adopting layoff⁴ rules, which include a “bumping” system, except with regard to law enforcement or correctional officers, firefighters, or professional health care providers. “Bumping” is defined to mean “any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but either vacant or already occupied by an employee of less seniority, and taking that position.”⁵ The DMS must develop

¹ See art. III, s. 14 of the Fla. Const.

² See art. I, s. 6 of the Fla. Const.

³ See s. 110.201, F.S.

⁴ Section 110.107(23), F.S., defines “layoff” to mean “termination of employment due to a shortage of funds or work, or a material change in the duties or organization of an agency, including the outsourcing or privatization of an activity or function previously performed by career service employees.”

⁵ Section 110.227(2)(a), F.S.

rules that mandate agencies to consider “comparative merit, demonstrated, skills, and the employee’s experience.”⁶

Current law does not define the terms “career service” and “career service employee.” A “career service employee” may be a short-term or long-term employee. The rules distinguish among probationary, overlap, temporary, trainee, and permanent status.⁷ The rules further provide that an employee who has been appointed in accordance with chapter 110, F.S., and granted probationary status attains permanent status in a class upon successful completion of the designated probationary period for the class.⁸

Current law provides that an employee who has satisfactorily completed *at least* a 1-year probationary period may only be suspended or dismissed for cause.⁹ Cause includes negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime involving moral turpitude.¹⁰

Senior Management Service System

Part III of chapter 110, F.S., establishes the Senior Management Service System (SMS), which is a separate system of personnel administration for positions in the executive branch. The duties and responsibilities are primarily and essentially policymaking or managerial in nature.¹¹ The DMS is charged with adopting rules that provide for a system for employing, promoting, or reassigning managers that is responsive to organizational or program needs.¹²

Volunteers

Part IV of chapter 110, F.S., provides requirements for departments and agencies that use volunteers.

Selected Exempt Service System

Part V of chapter 110, F.S., creates the Selected Exempt Service System (SES). The SES is a separate system of personnel administration that includes those positions that are exempt from the Career Service System. The DMS is required to designate all positions included in the SES as managerial/policymaking, professional, or nonmanagerial/nonpolicymaking.¹³ Employees in the SES serve at the pleasure of the agency head and are subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head.¹⁴

Background: Chapter 112, F.S., Public Officers and Employees

General Provisions

Part I of chapter 112, F.S., consists of general provisions applying to public employment, such as those relating to:

- Discrimination;
- Retirement and pensions; and
- Insurance.

Interchange of Public Employees between Governments

Part II of chapter 112, F.S., provides authority and requirements for the temporary assignment of public employees to other governmental entities.

⁶ *Id.*

⁷ *See* rule 50L-33.003, F.A.C.

⁸ *Id.*

⁹ Section 110.227(1), F.S.

¹⁰ *Id.*

¹¹ *See* s. 110.402, F.S.

¹² *See* s. 110.403, F.S.

¹³ *See* s. 110.602, F.S.

¹⁴ *See* s. 110.604, F.S.

Code of Ethics

Part III of chapter 112, F.S., sets out ethics requirements for public officers and employees and creates the Commission on Ethics.

Supplemental Retirement Act for Retired Members of State Retirement Systems

Part IV of chapter 112, F.S., authorizes a supplement to the monthly retirement benefits of members retired under specified retirement systems and of specified disabled members.

Suspension, Removal, or Retirement of Public Officers

Part V of chapter 112, F.S., governs the suspension, removal, or retirement of a public officer.

Law Enforcement and Correctional Officers

Part VI of chapter 112, F.S., includes the law enforcement officers' bill of rights and requirements for the discipline of such officers.

Actuarial Soundness of Retirement Systems

Part VII of chapter 112, F.S., implements state constitutional requirements relating to the actuarial soundness of public retirement systems.

Firefighters

Part VIII of chapter 112, F.S., specifies rights of firefighters.

Background: "Service First" Legislation

The most recent set of significant changes to the statutes governing the state employment system occurred during the 2001 legislative session. That year, the Legislature enacted numerous changes to chapters 110 and 112, F.S., through the *Service First* initiative.¹⁵ Those changes removed designated positions from the civil service; increased benefit compensation for named, exempt positions; banned political considerations in civil service actions; altered appellate rights in personnel disciplinary cases; and made retention decisions during reduction in force actions a function of overall fitness considerations rather than of longevity of prior employment.¹⁶

Effect of Proposed Changes

The bill significantly reorganizes provisions relating to public employees and officers and makes conforming and drafting changes.

The bill revises terminology as follows:

- Changes the title of chapter 110, F.S., from "State Employment" to "State Personnel System."
- Replaces references to "Career Service" with "Civil Service" to comport with the language in the Florida Constitution.¹⁷
- Updates definitions for "state agency or agency," "classification plan," "salary schedule," "position number," "reclassification," "promotion," "demotion," and "reassignment."
- Adds definitions for "state employee or employee," "State Personnel System," "position description," "other personal services," "telework," "merit status," and "lateral transfer."

The bill makes changes to clean up statutory language and to improve efficiency. Those changes include, but are not limited to:

- Removal of obsolete references.
- Creation of a definition for "State Personnel System."
- Revision of provisions relating to telework to reflect current technological practices.
- Streamlining of the rule development and modification process.

¹⁵ See ch. 2001-43, L.O.F.

¹⁶ *Id.*

¹⁷ See art. III, s. 14 of the Fla. Const.

ADMINISTRATIVE COSTS

The state maintains a personnel information program for human resources.¹⁸ Costs of operating the program are divided among specified state agencies.¹⁹ The bill authorizes the DMS to charge other governmental entities that use the program services for associated costs without requiring separate agreements between DMS and the other entities.

EMPLOYEE COMPENSATION

Bonus Awards

Current law allows state department heads to award bonuses to exemplary employees if specified conditions are met.²⁰ It also authorizes department heads to spend up to \$100 on tokens of recognition for certain employees.²¹ There is no limit on the total amount one employee may receive in a year.

The bill provides that an exemplary employee may receive up to \$1,000 in a single bonus award, but limits the amount an employee may receive in total bonuses in a year to \$1,000.

Pay Additives

Current law authorizes agencies to use pay additives. Pay additives include shift differentials, on-call fees, hazardous-duty pay, salary increase and decrease corrections, lead-worker pay, temporary special duties pay, trainer-additive pay, competitive area differentials, and critical market pay.²² The pay additives must be consistent with the DMS's guidelines and the directions of the Legislature contained in the General Appropriations Act.²³

The employing agency must notify the DMS, the Executive Office of the Governor, and the Legislature, in writing, of the plan to implement any pay additives before any scheduled start date of such additives.²⁴ Agencies may not implement any pay additives unless the Legislature has specifically authorized them and unless implementation of the pay additives does not conflict with any collective bargaining agreements.²⁵

The bill provides a process by which a necessary change to an approved plan during the fiscal year may be approved and authorizes an agency to implement salary increases and decrease corrections due to administrative errors.

EMPLOYEE LEAVE

Administrative Leave for Military Service-Connected Disability

Current law provides that a state employee who has been determined by the U.S. Department of Veterans Affairs (DVA) or its predecessor to have incurred a service-connected disability and has been scheduled by the DVA to be reexamined or treated for the disability is entitled to administrative leave for the reexamination or treatment without loss of pay or benefits.²⁶ Such administrative leave is limited to 6 calendar days a year.

The bill reduces such administrative leave to 48 hours a year.

Compensatory Leave Transfer

Compensatory leave is earned by career service employees for time worked in excess of the standard 40-hour week.²⁷ As a result of the 2001 *Service First* legislation, several thousand Career Service

¹⁸ See s. 110.125, F.S. The current personnel information program is People First.

¹⁹ *Id.*

²⁰ See s. 110.1245, F.S.

²¹ See s. 110.1245(4), F.S.

²² Section 110.2035(6)(c), F.S.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See s. 110.119(1), F.S.

²⁷ See rule 60L-34.0031, F.A.C.

employees had their positions involuntarily moved from the Career Service to the Selected Exempt Service. To prevent such employees from losing compensatory leave, the Legislature provided that if a career service employee was transferred or otherwise moved into the Selected Exempt Service, all the employee's unused annual leave, unused sick leave, and unused compensatory leave would carry forward with the employee.²⁸

The provision was intended to be a temporary measure during the *Service First* implementation. The result, however, is that the compensatory leave could be paid at a later, potentially higher rate instead of one based on the employee's rate of pay when the compensatory leave was actually earned.

The bill repeals the provision requiring the transfer of such leave with an employee who moves from a Career Service to a Selected Exempt Service position.

Proposal for Changes to Employee Leave

The bill requires the DMS to create a proposal to restructure and modernize the leave benefits of the State Personnel System. The proposal must consider current leave policies of the state's private-sector employers and provides recommendations that will more closely align the state's leave benefits with those of the private sector, ensure better management of benefits, and leverage leave benefit expenditures to maximize the state's return on investment to competitively recruit and retain a high-performing workforce. The DMS must provide the proposal to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before December 31, 2012.

OTHER-PERSONAL-SERVICES EMPLOYEES

Limitation on Hours Worked

Current law authorizes agencies to hire individuals in other-personal-services (OPS) temporary employment when certain vacancies exist.²⁹ Each OPS employee may work no more than 1,040 hours annually. Any extension beyond the 1,040 hour limitation for each individual requires a recommendation by the agency head and approval by the Executive Office of the Governor.³⁰ The DMS must perform an annual review to assess agencies for the regulation of other personal services employment.³¹

The bill eliminates the current 1,040 hour annual limit for OPS employees, but requires agencies to review and document the mission-critical need for any continuing OPS position by June 30 of each year.

Social Security Program Alternatives

Current law authorizes the DMS to contract for the implementation of an alternative retirement income security program for OPS employees, upon approval of the Governor.³²

The bill transfers the on-going administration of the program to the Department of Financial Services.

EMPLOYEE FURLONGHS

A furlough is a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay.³³

Current law allows the Administration Commission³⁴ to present a state employee furlough plan to the Legislature when a deficit is projected by the Revenue Estimating Conference³⁵ in any fund that

²⁸ See s. 110.205(7), F.S.

²⁹ See s. 110.131(2), F.S.

³⁰ *Id.*

³¹ Section 110.131(7), F.S.

³² See s. 110.1315, F.S.

³³ Section 110.107(3), F.S.

³⁴ The Administration Commission is composed of the Governor and the members of the Cabinet. See s. 14.202, F.S.

supports salary and benefit appropriations.³⁶ The Legislature must approve or disapprove such plan. The plan must identify all affected positions and ensure that all affected employees are subject to the same reduction of hours for the same number of pay periods with a commensurate reduction in pay.³⁷

Because the Florida Constitution requires the Legislature to create a balanced budget,³⁸ the bill removes the requirement that a deficit be projected by the Revenue Estimating Conference. It also makes additional changes to the process for and entities involved in approving a furlough. The bill provides that if a deficit is projected in any state agency fund that supports salary and benefits appropriations, then the agency may, upon approval by the Governor or the Chief Justice of the Supreme Court, propose a furlough plan to the Legislative Budget Commission, which must approve or disapprove such plan. The bill specifies that all affected employees *within a budget entity* are subject to the same reduction of hours for the same number of pay periods with a commensurate reduction in pay.

The bill also authorizes the Legislature to address anticipated short-term shortfalls to funds that support salary and benefit appropriations for a specified fiscal year by directing an agency to impose furloughs pursuant to the General Appropriations Act.

PERFORMANCE STANDARDS FOR PROBATIONARY EMPLOYEES

Current law provides procedures for the suspension, dismissal, reduction in pay, demotion, layoff, transfer, or grievance of a career service employee.³⁹ In 2008, the Legislature amended the procedures to provide that a permanent career service employee who is promoted is subject to the one year probationary period required for new career service employees and may not be removed from the promotional position without cause, but is entitled to return to his or her former position (or the equivalent) if such position is available (hereinafter "2008 provision").⁴⁰

An employee who is dismissed during his or her probationary period is not entitled to hearing rights before the Public Employee Relations Commission (PERC).⁴¹ However, the First District Court of Appeal has ruled that the effect of the 2008 provision is that in some circumstances, an employee who is fired during the probationary period subsequent to a promotion is entitled to hearing rights before the PERC.⁴²

The bill clarifies that the 2008 provision does not grant PERC hearing rights.

FLORIDA STATE EMPLOYEES' CHARITABLE CAMPAIGN

Current law requires the DMS to conduct the Florida State Employees' Charitable Campaign, an annual fundraising drive directed toward state employees.⁴³ Multiple charitable organizations may participate in the campaign.⁴⁴ A contributing employee may choose to donate to the fund without specifying a recipient from among the participating charitable organizations, but such a decision requires the state to manage designation of the donation.⁴⁵

³⁵ The Revenue Estimating Conference develops official information relating to anticipated state and local government revenues for state planning and budgeting. See s. 216.136(3), F.S.

³⁶ See s. 110.1225, F.S.

³⁷ *Id.*

³⁸ See art. III, s. 19(a), and art. VII, s. (1)(d), Fla. Const.

³⁹ See s. 110.227, F.S.

⁴⁰ Chapter 2008-126, L.O.F. (CS/CS/HB 887).

⁴¹ See 110.227(1), F.S. The PERC processes charges of unfair labor practices and charges relating to a public employee or employee organization. It handles public sector cases (unfair labor practice charges, representation petitions, amendments to certification, petitions to revoke certifications, and labor organizations registration), career service appeals, Drug-Free Workplace appeals, whistleblower appeals, veterans' preference appeals, attorneys' fees appeal, back pay appeals, mediations, and district court appeals. See s. 447.207, F.S.

⁴² *Pesta v. Department of Corrections*, Case No. 1D09-6489 (Fla. 1st DCA 2011).

⁴³ See s. 110.181(1)(a), F.S.

⁴⁴ See s. 110.181(1)(c), F.S.

⁴⁵ See s. 110.181, F.S.

The bill requires a contributing employee to designate a charitable organization.

CHILD CARE

Current law requires the DMS to approve, administer, and coordinate child care services for state employees' children or dependents.⁴⁶ Its duties include, but are not limited to, reviewing and approving requests from state agencies for child care services; providing technical assistance on child care program startup and operation; and assisting other agencies in conducting needs assessments, designing centers, and selecting service providers.⁴⁷

The bill eliminates DMS's administrative role and instead grants authority to establish, administer, and coordinate child care services to any state agency.

ADMINISTRATION COMMISSION'S RULE APPROVAL AUTHORITY

The Administration Commission (commission) is composed of the Governor and members of the Cabinet.⁴⁸ The commission is required to adopt rules to implement provisions of law conferring duties upon it.⁴⁹ Current law requires a variety of personnel-related rules developed by the DMS to be approved by the commission. Such rules include, but are not limited to, those pertaining to affirmative action plans;⁵⁰ pretax benefits programs;⁵¹ administration of the classification plan;⁵² shared employment;⁵³ and attendance and leave.⁵⁴ The commission must also approve any exception to uniform personnel rules promulgated by the DMS.⁵⁵

The bill preserves the authority of the commission to approve exceptions to the uniform personnel rules, but removes the authority of the commission to approve certain personnel-related rules before they become effective.

Incorporation of Parts IX and XI of Chapter 112 as Applied to the State Personnel System

The bill restructures and renumbers numerous sections of the present statutes to form new parts IX and XI of chapter 112, F.S. Section 8 of the bill creates s. 110.1065, F.S., that states general policies and incorporates by reference the provisions of parts IX and XI, making them applicable to the State Personnel System. Although DMS does not have rulemaking authority generally for new parts IX and XI, the bill expressly provides DMS with authority to adopt rules implementing the provisions of parts IX and XI as applied to chapter 110, F.S.

B. SECTION DIRECTORY:

Section 1 requests that the Division of Statutory Revision rename ch. 110, F.S., as "State Personnel System."

Section 2 requests that the Division of Statutory Revision rename part I of ch. 110, F.S., as "General Provisions."

Section 3 amends s. 110.105, F.S., relating to the establishment and administration of the State Personnel System.

Section 4 amends, transfers, and renumbers s. 110.107, F.S., as s. 110.1054, F.S., relating to definitions for the State Personnel System.

⁴⁶ See s. 110.151, F.S.

⁴⁷ *Id.*

⁴⁸ See s. 14.202, F.S.

⁴⁹ *Id.*

⁵⁰ See s. 110.112(2)(a), F.S.

⁵¹ See s. 110.161(5), F.S.

⁵² See s. 110.2035(1)(e), F.S.

⁵³ See s. 110.21(5), F.S.

⁵⁴ See s. 110.219(5), F.S.

⁵⁵ See s. 110.201(1)(a), F.S.

Section 5 amends s. 110.1055, F.S., relating to personnel rules and records.

Section 6 creates s. 110.1056, F.S., relating to audits of agency records.

Section 7 amends, transfers, and renumbers s. 110.405, F.S., as s. 110.106, F.S., relating to advisory committees.

Section 8 creates s. 110.1065, F.S., relating to general employment policies and requirements for the State Personnel System. Parts IX and XI of chapter 112, created by the bill, are incorporated by reference and made applicable to the State Personnel System, and DMS is authorized to adopt rules implementing those parts of chapter 112 in the administration of chapter 110.

Section 9 amends, transfers, and renumbers s. 110.233, F.S., as s. 110.1075, F.S., relating to prohibited political activities and unlawful acts.

Section 10 amends s. 110.1099, F.S., relating to elective education and professional development certain state employees.

Section 11 amends, transfers, and renumbers s. 110.235, F.S., as s. 110.1115, F.S., relating to training and professional development of state employees.

Section 12 amends s. 110.112, F.S., relating to equal employment opportunity.

Section 13 creates s. 110.1135, F.S., relating to attendance and leave records.

Section 14 amends s. 110.116, F.S., relating to the human resource information system and payroll procedures.

Section 15 amends s. 110.1245, F.S., relating to bonus payments and other awards.

Section 16 amends s. 110.125, F.S., relating to administrative costs.

Section 17 amends s. 110.126, F.S., relating to oaths, testimony, and records.

Section 18 amends s. 110.127, F.S., relating to penalties for violation of the chapter or associated rules.

Section 19 amends, transfers, and renumbers s. 110.2037, F.S., as s. 110.182, F.S., relating to tax-sheltered annual leave and sick leave payments and special compensation payments.

Section 20 amends, transfers, and renumbers s. 110.201, F.S., as s. 110.183, F.S., relating to collective bargaining.

Section 21 creates s. 110.184, F.S., relating to a workforce report.

Section 22 requests that the Division of Statutory Revision rename part II of ch. 110, F.S., as "Civil Service."

Section 23 creates s. 110.202, F.S., relating to the establishment of the Civil Service.

Section 24 amends s. 110.205, F.S., relating to Civil Service positions.

Section 25 creates s. 110.208, F.S., relating to a classification system for Civil Service positions.

Section 26 creates s. 110.2085, F.S., relating to the Civil Service pay plan.

Section 27 amends s. 110.211, F.S., relating to recruitment.

Section 28 amends s. 110.213, F.S., relating to selection of employees.

Section 29 amends s. 110.2135, F.S., relating to veterans' preference in employment.

Section 30 amends s. 110.215, F.S., relating to assessments of disabled persons.

Section 31 amends s. 110.217, F.S., relating to appointment actions and status.

Section 32 amends s. 110.219, F.S., relating to attendance and leave general policies.

Section 33 amends s. 110.221, F.S., relating to family medical leave.

Section 34 amends s. 110.224, F.S., relating to employee evaluations.

Section 35 amends s. 110.227, F.S., relating to suspension, dismissal, or pay reductions of Civil Service employees.

Section 36 requests that the Division of Statutory Revision renumber part V of ch. 110, F.S., as part III of that chapter, and rename that part as "Selected Exempt Service."

Section 37 amends, transfers, and renumbers s. 110.601, F.S., as s. 110.302, F.S., relating to the declaration of policy for Selected Exempt Service employees.

Section 38 amends, transfers, and renumbers s. 110.602, F.S., as s. 110.3021, F.S., relating to the establishment of the Selected Exempt Service.

Section 39 amends, transfers, and renumbers s. 110.605, F.S., as s. 110.3022, F.S., relating to DMS's administration of and duties for the Selected Exempt Service.

Section 40 creates s. 110.3023, F.S., relating to recruitment of Selected Exempt Service employees.

Section 41 requests that the Division of Statutory Revision renumber part III of ch. 110, F.S., as part IV of that chapter, and rename that part as "Senior Management Service."

Section 42 amends s. 110.401, F.S., relating to a declaration of policy for Senior Management Service employees.

Section 43 amends s. 110.402, F.S., relating to establishment of the Senior Management Service.

Section 44 amends s. 110.403, F.S., relating to administration of the Senior Management Service.

Section 45 creates s. 110.4035, F.S., relating to recruitment of Senior Management Service employees.

Section 46 requests that the Division of Statutory Revision create part IX of ch. 112, F.S., to be entitled "State Employment."

Section 47 creates s. 112.906, F.S., relating to definitions for the "State Employment" part.

Section 48 amends, transfers, and renumbers s. 110.131, F.S., as s. 112.907, F.S., relating to other-personal-services employees.

Section 49 amends, transfers, and renumbers s. 110.1315, F.S., as s. 112.908, F.S., relating to alternative benefits for other-personal-services employees.

Section 50 transfers and renumbers s. 110.1128, F.S., as s. 112.909, F.S.

Section 51 creates s. 112.910, F.S., relating to state policy for equal employment opportunity.

Section 52 creates s. 112.911, F.S., relating to nondiscrimination in state employment.

Section 53 amends, transfers, and renumbers s. 110.1221, F.S., as s. 112.912, F.S., relating to the sexual harassment policy for the state.

Section 54 amends, transfers, and renumbers s. 110.122, F.S., as s. 112.913, F.S., relating to accumulation and use of, and terminal payment of, annual and sick leave.

Section 55 amends, transfers, and renumbers s. 110.121, F.S., as s. 112.914, F.S., relating to agency sick leave pools.

Section 56 amends, transfers, and renumbers s. 110.119, F.S., as s. 112.915, F.S., relating to administrative leave for military service-connected disability.

Section 57 amends, transfers, and renumbers s. 110.120, F.S., as s. 112.916, F.S., relating to administrative leave for disaster service volunteers.

Section 58 amends, transfers, and renumbers s. 110.1091, F.S., as s. 112.917, F.S., relating to employee assistance programs.

Section 59 amends, transfers, and renumbers s. 110.151, F.S., as s. 112.918, F.S., relating to child care services.

Section 60 amends, transfers, and renumbers s. 110.181, F.S., as s. 112.919, F.S., relating to the Florida State Employees' Charitable Campaign.

Section 61 amends, transfers, and renumbers s. 110.1225, F.S., as s. 112.920, F.S., relating to furloughs.

Section 62 transfers and renumbers s. 110.1155, F.S., as s. 112.921, F.S.

Section 63 amends, transfers, and renumbers s. 110.191, F.S., as s. 112.922, F.S., relating to state employee leasing.

Section 64 amends, transfers, and renumbers s. 110.1082, F.S., as s. 112.923, F.S., relating to telephone voice mail and menu systems.

Section 65 amends, transfers, and renumbers s. 110.1165, F.S., as s. 112.924, F.S., relating to executive branch personnel errors.

Section 66 amends, transfers, and renumbers s. 110.113, F.S., as s. 112.925, F.S., relating to pay periods and direct deposit.

Section 67 transfers and renumbers s. 110.114, F.S., as s. 112.926, F.S.

Section 68 creates s. 112.027, F.S., relating to the human resource information system.

Section 69 amends, transfers, and renumbers s. 110.1127, F.S., as s. 112.928, F.S., relating to employee background screening and investigations.

Section 70 amends, transfers, and renumbers s. 110.117, F.S., as s. 112.929, F.S., relating to paid holidays and personal days.

Section 71 creates s. 112.930, F.S., relating to telework policies.

Section 72 creates s. 112.931, F.S., relating to savings sharings programs.

Section 73 transfers and renumbers s. 110.1156, F.S., as s. 112.932, F.S.

Section 74 creates s. 112.933, F.S., relating to penalties for violation of that part.

Section 75 requests the Division of Statutory Revision to create part X of ch. 112, F.S., to be entitled "State Administered Benefits."

Section 76 amends, transfers, and renumbers s. 110.1227, F.S., relating to the Florida Employee Long-Term-Care Plan Act.

Section 77 amends, transfers, and renumbers s. 110.1228, F.S., as s. 112.942, F.S., relating to participation of certain local governments in the state group health insurance program.

Section 78 amends, transfers, and renumbers s. 110.123, F.S., as s. 112.942, F.S., relating to the state group insurance program.

Section 79 amends, transfers, and renumbers s. 110.12301, F.S., as s. 112.943, F.S., relating to competitive procurement of postpayment claims review services by the Division of State Group Insurance.

Section 80 transfers and renumbers s. 110.12302, F.S., as s. 112.944, F.S.

Section 81 amends, transfers, and renumbers s. 110.12312, F.S., as s. 112.945, F.S., relating to the health insurance open enrollment period for retirees.

Section 82 transfers and renumbers s. 110.12315, F.S., as s. 112.946, F.S.

Section 83 amends, transfers, and renumbers s. 110.1232, F.S., as s. 112.947, F.S., relating to health insurance coverage for persons retired under state-administered retirement systems before a date certain.

Section 84 transfers and renumbers s. 110.1234, F.S., as s. 112.948, F.S.

Section 85 transfers and renumbers s. 110.1238, F.S., as s. 112.949, F.S.

Section 86 transfers and renumbers s. 110.1239, F.S., as s. 112.950, F.S.

Section 87 amends, transfers, and renumbers s. 110.161, F.S., as s. 112.951, F.S., relating to the pretax benefits program for state employees.

Section 88 creates s. 112.952, F.S., relating to penalties for a violation of that part.

Section 89 requests that the Division of Statutory Revision renumber part IV of ch. 110, F.S., as part XI of ch. 112, F.S., and rename that part as "State Volunteer Services."

Section 90 amends, transfers, and renumbers s. 110.501, F.S., as s. 112.961, F.S., relating to definitions for "State Volunteer Services."

Section 91 amends, transfers, and renumbers s. 110.502, F.S., as s. 112.962, F.S., relating to state volunteers.

Section 92 amends, transfers, and renumbers s. 110.503, F.S., as s. 112.963, F.S., relating to responsibilities of agencies using volunteers.

Section 93 amends, transfers, and renumbers s. 110.504, F.S., as s. 112.964, F.S., relating to volunteer benefits.

Section 94 creates s. 112.965, F.S., relating to penalties for a violation of that part.

Section 95 repeals the following sections of the Florida Statutes: 110.115, 110.118, 110.124, 110.129, 110.1521, 110.1522, 110.1523, 110.171, 110.2035, 110.21, 110.406, 110.603, 110.604, and 110.606.

Section 96 amends s. 11.13, F.S., to make conforming and drafting changes.

Section 97 amends s. 20.055, F.S., to make conforming and drafting changes.

Section 98 amends s. 20.21, F.S., to make conforming and drafting changes.

Section 99 amends s. 20.23, F.S., to make conforming and drafting changes.

Section 100 amends s. 20.255, F.S., to make a conforming change.

Section 101 amends s. 24.105, F.S., to make conforming and drafting changes.

Section 102 amends s. 24.122, F.S., to make a conforming change.

Section 103 amends s. 30.071, F.S., to make conforming and drafting changes.

Section 104 amends s. 43.16, F.S., to make conforming and drafting changes.

Section 105 amends s. 104.31, F.S., to make conforming and drafting changes.

Section 106 amends s. 106.24, F.S., to make conforming and drafting changes.

Section 107 amends s. 112.044, F.S., to make conforming and drafting changes.

Section 108 amends s. 112.0805, F.S., to make conforming and drafting changes.

Section 109 amends s. 112.313, F.S., to make conforming and drafting changes.

Section 110 amends s. 112.3145, F.S., to make conforming and drafting changes.

Section 111 amends s. 112.363, F.S., to make conforming and drafting changes.

Section 112 amends s. 121.021, F.S., to make conforming and drafting changes.

Section 113 amends s. 121.051, F.S., to make conforming and drafting changes.

Section 114 amends s. 121.055, F.S., to make conforming and drafting changes.

Section 115 amends s. 121.35, F.S., to make conforming and drafting changes.

Section 116 amends s. 145.19, F.S., to make conforming and drafting changes.

Section 117 amends s. 216.011, F.S., to make conforming and drafting changes.

Section 118 amends s. 216.181, F.S., to make a conforming change.

Section 119 amends s. 260.0125, F.S., to make a conforming change.

Section 120 amends s. 287.175, F.S., to make conforming and drafting changes.

Section 121 amends s. 295.07, F.S., to make conforming changes.

Section 122 amends s. 295.09, F.S., to make conforming and drafting changes.

Section 123 amends s. 296.04, F.S., to make conforming and drafting changes.

Section 124 amends s. 296.34, F.S., to make conforming and drafting changes.

Section 125 amends s. 381.00315, F.S., to make a conforming change.

Section 126 amends s. 381.85, F.S., to make conforming and drafting changes.

Section 127 amends s. 394.47865, F.S., to make a conforming change.

Section 128 amends s. 402.3057, F.S., to make conforming and drafting changes.

Section 129 amends s. 402.55, F.S., to make conforming and drafting changes.

Section 130 amends s. 402.7305, F.S., to make a conforming change.

Section 131 amends s. 402.731, F.S., to make conforming and drafting changes.

Section 132 amends s. 409.1757, F.S., to make conforming and drafting changes.

Section 133 amends s. 409.9205, F.S., to make conforming and drafting changes.

Section 134 amends s. 414.37, F.S., to make conforming and drafting changes.

Section 135 amends s. 427.012, F.S., to make conforming and drafting changes.

Section 136 amends s. 440.102, F.S., to make a conforming change.

Section 137 amends s. 447.203, F.S., to make conforming and drafting changes.

Section 138 amends s. 447.207, F.S., to make conforming changes.

Section 139 amends s. 447.209, F.S., to make conforming and drafting changes.

Section 140 amends s. 447.401, F.S., to make conforming and drafting changes.

Section 141 amends s. 456.048, F.S., to make conforming and drafting changes.

Section 142 amends s. 551.116, F.S., to make a conforming change.

Section 143 amends s. 570.07, F.S., to make conforming and drafting changes.

Section 144 amends s. 601.10, F.S., to make drafting and conforming changes.

Section 145 amends s. 624.307, F.S., to make conforming and drafting changes.

Section 146 amends s. 624.437, F.S., to make conforming and drafting changes.

Section 147 amends s. 627.6488, F.S., to make conforming and drafting changes.

Section 148 amends s. 627.649, F.S., to make conforming and drafting changes.

Section 149 amends s. 627.6498, F.S., to make conforming and drafting changes.

Section 150 amends s. 627.6617, F.S., to make conforming and drafting changes.

Section 151 amends s. 627.6686, F.S., to make conforming and drafting changes.

Section 152 amends s. 849.086, F.S., to make a conforming change.

Section 153 amends s. 943.0585, F.S., to make conforming and drafting changes.

Section 154 amends s. 943.059, F.S., to make a conforming change.

Section 155 amends s. 945.043, F.S., to make conforming and drafting changes.

Section 156 amends s. 946.525, F.S., to make conforming and drafting changes.

Section 157 amends s. 985.045, F.S., to make a conforming change.

Section 158 amends s. 1001.705, F.S., to make conforming changes.

Section 159 amends s. 1001.706, F.S., to make conforming changes.

Section 160 amends s. 1002.36, F.S., to make conforming and drafting changes.

Section 161 amends s. 1012.62, F.S., to make conforming and drafting changes.

Section 162 amends s. 1012.79, F.S., to make a conforming change.

Section 163 amends s. 1012.88, F.S., to make conforming and drafting changes.

Section 164 amends s. 1012.96, F.S., to make a conforming change.

Section 165 requires the DMS to create a proposal to restructure and modernize state employee leave.

Section 166 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes no new revenue sources and existing revenues would not be increased.

2. Expenditures:

There is likely to be an indeterminate reduction in state expenditures due to procedural efficiencies in the bill and due to changes to employee leave carry-over.

The changes to bonus authorizations, telework, provisions involving People First, and the streamlining of other processes may have an indeterminate fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill authorizes no new revenue sources and existing revenues would not be increased.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The cost of the research and study necessary to prepare the report required by s. 165 of the bill is indeterminate. A somewhat similar study in Florida during 1999-2000 cost approximately \$90,000 and a similar study recently completed in Utah is believed to have cost approximately \$300,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.⁵⁶ Rulemaking authority is delegated by the Legislature through statute and authorizes an agency to "adopt, develop, establish, or otherwise create" a rule. Because legislative power involves the exercise of policy-related discretion over the content of law,⁵⁷ any discretion given an agency to implement a law must be "pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."⁵⁸

The bill transfers, consolidates, and modifies grants of rulemaking authority relating to implementation of the statutes governing public employees. In part, the bill:

- Transfers some rulemaking authority from the DMS to the agency implementing the provision;
- Removes the Administration Commission's approval authority for certain DMS rules; and
- Changes some rulemaking authority for the DMS from mandatory to permissive.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In several sections the bill "requests" the Division of Statutory Revision to rename a chapter, part, or section of the statutes. This may create some uncertainty which would be resolved by changing the name directly in the bill.

Section 5 of the bill amends and restates the authority of DMS to adopt rules necessary to implement the provisions of chapter 110, F.S. Separate sections of the bill then provide authority for DMS to adopt rules to implement specific sections of the statute. The addition of these separate rulemaking provisions is not necessary. Because the separate sections of statute appear to provide the specific, substantive law to be implemented by rulemaking, additional grants of authority to adopt rules are redundant to the provisions in section 5 of the bill and may be deleted for greater clarity.

⁵⁶ See s. 120.52(16), F.S.; *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696 (Fla. 1st DCA 2001).

⁵⁷ See *State ex rel. Taylor v. City of Tallahassee*, 177 So.2d 719 (Fla. 1937).

⁵⁸ See *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 25, 2012, the Government Operations Subcommittee adopted a strike-all amendment and passed HB 1261 as a committee substitute. The amendment made technical and organizational changes, as well as the following substantive changes to the originally-filed bill:

- Removes the requirement that a governmental entity outside the State Personnel System must enter into a mutual agreement with the DMS in order to be charged for the People First services it receives, but allows the DMS to charge the governmental entity for such services;
- Removes the elimination of lump sum sick leave and annual leave payouts for leave earned after a date certain;
- Removes the elimination of authorization for agency child care programs;
- Removes the elimination of Florida personal and family medical leave provisions;
- Removes the requirement that the DMS conduct a pay cycle study; and
- Adds a requirement that the DMS provide a proposal to restructure and modernize leave benefits for state employees by a date certain.

The analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

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 establishment of the State Personnel
 6 System; transferring, renumbering, reordering, and
 7 amending s. 110.107, F.S.; revising definitions
 8 relating to ch. 110, F.S.; amending s. 110.1055, F.S.;
 9 revising the rulemaking authority of the Department of
 10 Management Services; creating s. 110.1056, F.S.;
 11 providing for agency audits to determine compliance
 12 with laws and rules; transferring, renumbering, and
 13 amending s. 110.405, F.S.; revising provisions
 14 relating to the appointment of ad hoc advisory
 15 committees; creating s. 110.1065, F.S.; providing the
 16 employment policies of the State Personnel System;
 17 authorizing the department to adopt rules;
 18 transferring, renumbering, and amending s. 110.233,
 19 F.S.; conforming provisions to changes made by the
 20 act; 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 opportunities;
 28 authorizing the department to adopt rules; creating s.

29 110.1135, F.S.; requiring state agencies to keep
 30 accurate records of work performed and leave; amending
 31 s. 110.116, F.S.; revising provisions relating to
 32 maintaining human resource information; authorizing
 33 the department to adopt rules; amending s. 110.1245,
 34 F.S.; revising provisions relating to bonuses and
 35 other awards; authorizing the department to adopt
 36 rules; amending s. 110.125, F.S.; revising provisions
 37 relating to payment for the administrative costs of
 38 operating the personnel program; authorizing the
 39 department to adopt rules; amending s. 110.126, F.S.;
 40 revising provisions relating to the department's
 41 authority to administer oaths; authorizing the
 42 department to adopt rules; amending s. 110.127, F.S.;
 43 revising provisions relating to penalties; authorizing
 44 the department to adopt rules; transferring,
 45 renumbering, and amending s. 110.2037, F.S.; revising
 46 provisions relating to tax-sheltered and special
 47 compensation benefits; authorizing the department to
 48 adopt rules; transferring, renumbering, and amending
 49 s. 110.201, F.S., relating to personnel rules,
 50 records, and reports; deleting provisions requiring
 51 the department, in consultation with affected
 52 agencies, to develop certain personnel rules,
 53 guidelines, records, and reports relating to employees
 54 and positions in the career service; creating s.
 55 110.184, F.S.; revising provisions relating to the
 56 department's annual workforce report; providing a

57 directive to the Division of Statutory Revision;
 58 creating s. 110.202, F.S.; providing a declaration of
 59 policy with respect to the establishment of the Civil
 60 Service; amending s. 110.205, F.S.; revising
 61 provisions relating to the list of positions that are
 62 exempted from the Civil Service; authorizing the
 63 department to adopt rules; creating s. 110.208, F.S.;
 64 providing for a uniform classification system for
 65 civil service positions; creating s. 110.2085, F.S.;
 66 providing a pay plan for civil service positions;
 67 authorizing the department to adopt rules; amending s.
 68 110.211, F.S.; revising provisions relating to
 69 recruitment; authorizing the department to adopt
 70 rules; amending s. 110.213, F.S.; revising provisions
 71 relating to selecting a candidate for employment;
 72 authorizing the department to adopt rules; amending s.
 73 110.2135, F.S.; revising provisions relating to
 74 veterans' preference; authorizing the department to
 75 adopt rules; amending s. 110.215, F.S.; revising
 76 provisions relating to employing persons with
 77 disabilities; authorizing the department to adopt
 78 rules; amending s. 110.217, F.S.; revising provisions
 79 relating to a change in an employee's position status;
 80 amending s. 110.219, F.S.; revising provisions
 81 relating to attendance and leave policies; amending s.
 82 110.221, F.S.; conforming provisions to changes made
 83 by the act; authorizing the department to adopt rules;
 84 amending s. 110.224, F.S.; revising provisions

85 relating to employee evaluation; amending s. 110.227,
 86 F.S.; revising provisions relating to employee
 87 grievances; authorizing the department to adopt rules;
 88 providing a directive to the Division of Statutory
 89 Revision; transferring, renumbering, and amending s.
 90 110.601, F.S.; revising provisions relating to
 91 selected exempt service policy; transferring,
 92 renumbering, and amending s. 110.602, F.S.; revising
 93 provisions relating to the creation of the Selected
 94 Exempt Service; transferring, renumbering, and
 95 amending s. 110.605, F.S.; revising provisions
 96 relating to the powers and duties of the department;
 97 creating s. 110.3023, F.S.; providing for the
 98 recruitment of selected exempt service staff;
 99 providing a directive to the Division of Statutory
 100 Revision; amending s. 110.401, F.S.; revising
 101 provisions relating to policies for senior management
 102 employees; amending s. 110.402, F.S.; revising
 103 provisions relating to the establishment of the Senior
 104 Management Service; amending s. 110.403, F.S.;
 105 revising provisions relating to the duties of the
 106 department with respect to the Senior Management
 107 Service; creating s. 110.4035, F.S.; providing
 108 recruitment requirements for senior management service
 109 employees; providing a directive to the Division of
 110 Statutory Revision; creating s. 112.906, F.S.;
 111 providing definitions for part IX of ch. 112, F.S.,
 112 relating to state employment; transferring,

113 renumbering, and amending s. 110.131, F.S.; revising
 114 the duties of state agencies with respect to the
 115 employment of other-personal-services employees;
 116 authorizing state agencies having rulemaking authority
 117 with respect to the conditions of employment to adopt
 118 rules; transferring, renumbering, and amending s.
 119 110.1315, F.S.; revising a provision relating to
 120 other-personal-services employment; authorizing the
 121 Department of Financial Services to adopt rules;
 122 transferring and renumbering s. 110.1128, F.S.,
 123 relating to selective service registration; creating
 124 s. 112.910, F.S.; providing for equal employment
 125 opportunity; creating s. 112.911, F.S.; providing for
 126 nondiscrimination in employment; transferring,
 127 renumbering, and amending s. 110.1221, F.S.; revising
 128 provisions relating to the state sexual harassment
 129 policy; transferring, renumbering, and amending s.
 130 110.122, F.S.; revising provisions relating to payment
 131 for sick leave; transferring, renumbering, and
 132 amending s. 110.121, F.S.; revising provisions
 133 relating to the sick leave pool; transferring,
 134 renumbering, and amending s. 110.119, F.S.; revising
 135 provisions relating to administrative leave for a
 136 service-connected disability; transferring,
 137 renumbering, and amending ss. 110.120 and 110.1091,
 138 F.S.; conforming provisions to changes made by the
 139 act; transferring, renumbering, and amending s.
 140 110.151, F.S.; revising provisions relating to child

141 care services provided by a state agency;
 142 transferring, renumbering, and amending s. 110.181,
 143 F.S.; revising provisions relating to the Florida
 144 State Employees' Charitable Campaign; requiring state
 145 officers and employees to designate a charitable
 146 organization to receive certain charitable
 147 contributions; deleting provisions relating to the
 148 establishment of local steering committees and the
 149 distribution of funds; transferring, renumbering, and
 150 amending s. 110.1225, F.S.; revising provisions
 151 relating to agency furloughs; transferring and
 152 renumbering s. 110.1155, F.S., relating to travel to
 153 certain countries lacking diplomatic relations with
 154 the United States; transferring, renumbering, and
 155 amending s. 110.191, F.S.; revising provisions
 156 relating to state employee leasing; transferring,
 157 renumbering, and amending s. 110.1082, F.S.; revising
 158 provisions related to telephone use; transferring,
 159 renumbering, and amending s. 110.1165, F.S.; revising
 160 provisions relating to executive branch personnel
 161 errors; transferring, renumbering, and amending s.
 162 110.113, F.S.; revising provisions relating to pay
 163 periods; requiring state employees to participate in
 164 the direct deposit program; transferring and
 165 renumbering s. 110.114, F.S., relating to employee
 166 wage deductions; creating s. 112.927, F.S.;
 167 authorizing the Department of Management Services to
 168 use its human resource information system for resource

169 | functionality; transferring, renumbering, and amending
 170 | s. 110.1127, F.S.; revising provisions relating to
 171 | background screening; transferring, renumbering, and
 172 | amending s. 110.117, F.S.; revising provisions
 173 | relating to an employee's personal holiday; creating
 174 | s. 112.930, F.S.; providing a telework program;
 175 | creating s. 112.931, F.S.; providing requirements for
 176 | the savings sharing program; transferring and
 177 | renumbering s. 110.1156, F.S., relating to the export
 178 | of goods to countries that support terrorism; creating
 179 | s. 112.933, F.S.; providing penalties for violations
 180 | relating to state employment; providing a directive to
 181 | the Division of Statutory Revision; transferring,
 182 | renumbering, and amending ss. 110.1227 and 110.1228,
 183 | F.S.; conforming cross-references; transferring,
 184 | renumbering, and amending s. 110.123, F.S., relating
 185 | to the state group insurance program; conforming
 186 | terminology and making editorial changes;
 187 | transferring, renumbering, and amending s. 110.12301,
 188 | F.S.; conforming a cross-reference; transferring and
 189 | renumbering s. 110.12302, F.S., relating to costing
 190 | options for state group insurance plans; transferring,
 191 | renumbering, and amending s. 110.12312, F.S.;
 192 | conforming cross-references; transferring and
 193 | renumbering s. 110.12315, F.S., relating to the state
 194 | employees' prescription drug program; transferring,
 195 | renumbering, and amending s. 110.1232, F.S.;

196 | conforming cross-references; transferring and

197 renumbering s. 110.1234, F.S., relating to health
 198 insurance for retirees under the Florida Retirement
 199 System; transferring and renumbering s. 110.1238,
 200 F.S., relating to state group health insurance plans;
 201 transferring and renumbering s. 110.1239, F.S.,
 202 relating to funding for the state group health
 203 insurance program; transferring, renumbering, and
 204 amending s. 110.161, F.S.; conforming a cross-
 205 reference; creating s. 112.952, F.S.; providing for
 206 penalties; providing a directive to the Division of
 207 Statutory Revision; transferring, renumbering,
 208 reordering, and amending s. 110.501, F.S.; revising
 209 definitions relating to state volunteer services;
 210 transferring, renumbering, and amending s. 110.502,
 211 F.S.; revising provisions relating to volunteer
 212 status; transferring, renumbering, and amending s.
 213 110.503, F.S.; revising provisions relating to state
 214 agency responsibilities; transferring, renumbering,
 215 and amending s. 110.504, F.S.; revising provisions
 216 relating to volunteer benefits; creating s. 112.965,
 217 F.S.; providing for penalties; repealing s. 110.115,
 218 F.S., relating to employees of historical commissions;
 219 repealing s. 110.118, F.S., relating to administrative
 220 leave for athletic competitions; repealing s. 110.124,
 221 F.S., relating to the termination or transfer of
 222 employees 65 years of age or older; repealing s.
 223 110.129, F.S., relating to technical personnel
 224 assistance to political subdivisions; repealing s.

225 110.1521, F.S., relating to a short title; repealing
 226 s. 110.1522, F.S., relating to a model rule
 227 establishing family support personnel policies;
 228 repealing s. 110.1523, F.S., relating to the adoption
 229 of the model rule; repealing s. 110.171, F.S.,
 230 relating to telecommuting; repealing s. 110.2035,
 231 F.S., relating to the classification and compensation
 232 program for employment positions; repealing s. 110.21,
 233 F.S., relating to shared employment; repealing s.
 234 110.406, F.S., relating to senior management service
 235 data collection; repealing s. 110.603, F.S., relating
 236 to a classification plan and pay bands for selected
 237 exempt service positions; repealing s. 110.604, F.S.,
 238 relating to certain personnel actions for selected
 239 exempt service employees; repealing s. 110.606, F.S.,
 240 relating to selected exempt service data collection;
 241 amending ss. 11.13, 20.055, 20.21, 20.23, 20.255,
 242 24.105, 24.122, 30.071, 43.16, 104.31, 106.24,
 243 112.044, 112.0805, 112.313, 112.3145, 112.363,
 244 121.021, 121.051, 121.055, 121.35, 145.19, 216.011,
 245 216.181, 260.0125, 287.175, 295.07, 295.09, 296.04,
 246 296.34, 381.00315, 381.85, 394.47865, 402.3057,
 247 402.55, 402.7305, 402.731, 409.1757, 409.9205, 414.37,
 248 427.012, 440.102, 447.203, 447.207, 447.209, 447.401,
 249 456.048, 551.116, 570.07, 601.10, 624.307, 624.437,
 250 627.6488, 627.649, 627.6498, 627.6617, 627.6686,
 251 849.086, 943.0585, 943.059, 945.043, 946.525, 985.045,
 252 1001.705, 1001.706, 1002.36, 1012.62, 1012.79,

253 1012.88, and 1012.96, F.S.; conforming provisions to
 254 changes made by the act; requiring the department to
 255 provide a proposal to restructure and modernize the
 256 leave benefits of the State Personnel System to the
 257 Executive Office of the Governor, the President of the
 258 Senate, and the Speaker of the House of
 259 Representatives; providing an effective date.

260

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

262

263 Section 1. The Division of Statutory Revision is requested
 264 to rename chapter 110, Florida Statutes, as "State Personnel
 265 System."

266 Section 2. The Division of Statutory Revision is requested
 267 to rename part I of chapter 110, Florida Statutes, as "General
 268 Provisions."

269 Section 3. Section 110.105, Florida Statutes, is amended
 270 to read:

271 110.105 Establishment of the State Personnel System
 272 ~~Employment policy of the state.-~~

273 (1) ~~It is~~ The purpose of this chapter is to establish the
 274 State Personnel a System of personnel management. ~~The~~ This
 275 system shall provide a means for maintaining ~~to recruit, select,~~
 276 ~~train, develop, and maintain~~ an effective and responsible
 277 workforce and include ~~shall include~~ policies, and procedures,
 278 and guidelines for employee hiring and advancement, training and
 279 career development, position classification, salary
 280 administration, benefits, attendance and leave, discipline,

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281 ~~dismissal discharge~~, employee performance evaluations,
 282 affirmative action, and other related activities.

283 ~~(2) All appointments, terminations, assignments and~~
 284 ~~maintenance of status, compensation, privileges, and other terms~~
 285 ~~and conditions of employment in state government shall be made~~
 286 ~~without regard to age, sex, race, religion, national origin,~~
 287 ~~political affiliation, marital status, or handicap, except when~~
 288 ~~a specific sex, age, or physical requirement constitutes a bona~~
 289 ~~fide occupational qualification necessary to proper and~~
 290 ~~efficient administration.~~

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

295 ~~(2)(4)~~ This chapter contains the requirements ~~and guides~~
 296 for establishing and maintaining a system of personnel
 297 administration on a merit basis. The system ~~of personnel~~
 298 ~~administration~~ shall be implemented so as to ensure that the
 299 permit state agencies participating in the State Personnel
 300 System are ~~to be~~ eligible for ~~to receive~~ federal funds.

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

304 Section 4. Section 110.107, Florida Statutes, is
 305 transferred, renumbered as section 110.1054, Florida Statutes,
 306 reordered, and amended to read:

307 110.1054 ~~110.107~~ Definitions.—As used in this chapter, the
 308 term:

309 (5)~~(1)~~ "Department" means the Department of Management
 310 Services.

311 (30)~~(2)~~ "Secretary" means the Secretary of Management
 312 Services.

313 ~~(3) "Furlough" means a temporary reduction in the regular
 314 hours of employment in a pay period, or temporary leave without
 315 pay for one or more pay periods, with a commensurate reduction
 316 in pay, necessitated by a projected deficit in any fund that
 317 supports salary and benefit appropriations. The deficit must be
 318 projected by the Revenue Estimating Conference pursuant to s.
 319 216.136(3).~~

320 (31)~~(4)~~ "State agency" or "agency" means any entity within
 321 the State Personnel System ~~official, officer, commission, board,~~
 322 ~~authority, council, committee, or department of the executive~~
 323 ~~branch or the judicial branch of state government as defined in~~
 324 ~~chapter 216.~~

325 (32) "State employee" or "employee" means an employee of a
 326 state agency.

327 (33) "State Personnel System" means the system of
 328 personnel administration for authorized civil service, selected
 329 exempt service, and senior management service positions and
 330 other personal services employment within the following state
 331 agencies and organizational units of such agencies as specified
 332 by law:

333 (a) Agency for Enterprise Information Technology.

334 (b) Agency for Health Care Administration.

335 (c) Agency for Persons with Disabilities.

336 (d) Department of Agriculture and Consumer Services.

- 337 | (e) Department of Business and Professional Regulation.
- 338 | (f) Department of Children and Family Services.
- 339 | (g) Department of Citrus.
- 340 | (h) Department of Corrections.
- 341 | (i) Department of Economic Opportunity.
- 342 | (j) Department of Education.
- 343 | (k) Department of Elderly Affairs.
- 344 | (l) Department of Environmental Protection.
- 345 | (m) Department of Financial Services.
- 346 | (n) Department of Health.
- 347 | (o) Department of Highway Safety and Motor Vehicles.
- 348 | (p) Department of Juvenile Justice.
- 349 | (q) Department of Law Enforcement.
- 350 | (r) Department of Legal Affairs.
- 351 | (s) Department of Management Services.
- 352 | (t) Department of Military Affairs.
- 353 | (u) Department of Revenue.
- 354 | (v) Department of State.
- 355 | (w) Department of Transportation.
- 356 | (x) Department of Veterans' Affairs.
- 357 | (y) Executive Office of the Governor.
- 358 | (z) Fish and Wildlife Conservation Commission.
- 359 | (aa) Florida Public Service Commission.
- 360 | (bb) Florida School for the Deaf and the Blind.
- 361 | (cc) Parole Commission.
- 362 | (22)-(5) "Position" means the work, consisting of duties
- 363 | and responsibilities, ~~assigned to be~~ performed by an officer or
- 364 | employee.

365 (23) "Position description" means the document that
 366 accurately describes the assigned duties, responsibilities, and
 367 other pertinent information, including licensure, certification,
 368 or registration requirements, of a position and that serves as
 369 the official record of the work and other requirements of the
 370 position.

371 (10)~~(6)~~ "Full-time position" means a position authorized
 372 for the entire normally established work period, whether daily,
 373 weekly, monthly, or annually.

374 (19)~~(7)~~ "Part-time position" means a position authorized
 375 for less than the entire normally established work period,
 376 whether daily, weekly, monthly, or annually.

377 (16)~~(8)~~ "Occupation" means all positions that ~~which~~ are
 378 sufficiently similar in knowledge, skills, and abilities, and
 379 sufficiently similar as to kind or subject matter of work.

380 (17)~~(9)~~ "Occupational group" means a group of occupations
 381 which are sufficiently similar in the kind of work performed to
 382 warrant the use of the same performance factors in determining
 383 the level of complexity for all occupations in that occupational
 384 group.

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

387 (3)~~(10)~~ "Classification system plan" means a formal
 388 description of the concepts, rules, job family definitions,
 389 occupational group characteristics, ~~and~~ occupational profiles,
 390 and broadband levels used to classify in the classification of
 391 positions.

392 (21)~~(11)~~ "Pay plan" means a formal description of the

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393 philosophy, methods, procedures, and salary schedules for
 394 competitively compensating employees at market-based rates for
 395 work performed.

396 ~~(29)-(12)~~ "Salary schedule" means an official document that
 397 ~~which~~ contains a complete list of occupation titles, broadband
 398 level codes, ~~and~~ pay bands, and other related information.

399 ~~(1)-(13)~~ "Authorized position" means a position included in
 400 an approved budget. In counting the number of authorized
 401 positions, part-time positions may be converted to full-time
 402 equivalents.

403 ~~(8)-(14)~~ "Established position" means an authorized
 404 position that ~~which~~ has been classified in accordance with a
 405 classification system and pay plan as provided by law.

406 ~~(24)-(15)~~ "Position number" means the identification number
 407 assigned to an established position or other-personal-services
 408 employment position.

409 ~~(28)-(16)~~ "Reclassification" means changing an established
 410 position ~~in one broadband level in an occupational group~~ to a
 411 higher or lower broadband level within in the same occupation or
 412 changing an established position to a different occupation,
 413 either of which is the result of a change in the duties and
 414 responsibilities of the position ~~occupational group or to a~~
 415 ~~broadband level in a different occupational group.~~

416 ~~(26)-(17)~~ "Promotion" means moving a civil service employee
 417 to a higher broadband level within an occupation, or moving an
 418 employee to an occupation that has a broadband level having
 419 ~~changing the classification of an employee to a broadband level~~
 420 ~~having a higher maximum salary, or the changing of the~~

421 ~~classification of an employee to a broadband level having the~~
 422 ~~same or a lower maximum salary but a higher level of~~
 423 ~~responsibility.~~

424 (4)~~(18)~~ "Demotion" means moving a civil service ~~changing~~
 425 ~~the classification of an employee to a lower~~ broadband level
 426 within an occupation, or moving an employee to an occupation
 427 that has a broadband level having a lower maximum salary; ~~or the~~
 428 ~~changing of the classification of an employee to a broadband~~
 429 ~~level having the same or a higher maximum salary but a lower~~
 430 ~~level of responsibility.~~

431 (35)~~(19)~~ "Transfer" means moving a civil service ~~an~~
 432 employee from one geographic location of the state to a
 433 different geographic location that is more than ~~in excess of~~ 50
 434 highway miles from the employee's current work location. The
 435 mileage shall be calculated using an official Department of
 436 Transportation map.

437 (27)~~(20)~~ "Reassignment" means moving a civil service ~~an~~
 438 employee from a position in an occupation to a position in the
 439 same occupation and one ~~broadband level~~ which has different
 440 duties; or to a different position in a different occupation
 441 that has a the same ~~broadband level~~ with the same maximum
 442 salary; or to a position in the same occupation and different
 443 broadband level regardless of the duties, but in a different
 444 agency having the same maximum salary.

445 (6)~~(21)~~ "Dismissal" means a disciplinary action taken by
 446 an agency pursuant to s. 110.227 against a civil service ~~an~~
 447 employee which results ~~resulting~~ in the termination of his or
 448 her employment.

449 ~~(34)(22)~~ "Suspension" means a disciplinary action taken by
 450 an agency against a civil service employee pursuant to s.
 451 110.227 which ~~against an employee to~~ temporarily relieves
 452 ~~relieve~~ the employee of his or her duties and places ~~place~~ him
 453 or her on leave without pay.

454 ~~(14)(23)~~ "Layoff" means termination of employment due to a
 455 shortage of funds or work, or a material change in the duties or
 456 organization of an agency, including the outsourcing or
 457 privatization of an activity or function previously performed by
 458 civil ~~career~~ service employees.

459 ~~(15)~~ "Merit status" means the status attained by a civil
 460 service employee in his or her current position upon
 461 successfully completing the required probationary period by
 462 demonstrating competency in performing the duties and
 463 responsibilities of that position.

464 ~~(7)(24)~~ "Employing agency" means any agency authorized to
 465 employ personnel to carry out the responsibilities of the agency
 466 pursuant to ~~under the provisions of~~ chapter 20 or other law
 467 ~~statutory authority.~~

468 ~~(25)~~ "Shared employment" means ~~part-time career employment~~
 469 ~~whereby the duties and responsibilities of a full-time position~~
 470 ~~in the career service are divided among part-time employees who~~
 471 ~~are eligible for the position and who receive career service~~
 472 ~~benefits and wages pro rata. In no case shall "shared~~
 473 ~~employment" include the employment of persons paid from other-~~
 474 ~~personal-services funds.~~

475 ~~(9)(26)~~ "Firefighter" means a firefighter certified under
 476 chapter 633.

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477 ~~(13)(27)~~ "Law enforcement or correctional officer" means a
 478 law enforcement officer, special agent, correctional officer,
 479 correctional probation officer, or institutional security
 480 specialist ~~required to be~~ certified under chapter 943.

481 ~~(25)(28)~~ "Professional health care provider" means
 482 registered nurses, physician's assistants, dentists,
 483 psychologists, nutritionists or dietitians, pharmacists,
 484 psychological specialists, physical therapists, and speech and
 485 hearing therapists.

486 ~~(11)(29)~~ "Job family" means a defined grouping of one or
 487 more similar occupational groups.

488 ~~(12)~~ "Lateral" means moving a civil service employee
 489 within an agency to a different position that is in the same
 490 occupation, that is at the same broadband level with the same
 491 maximum salary, and that has substantially the same duties and
 492 responsibilities.

493 ~~(20)(30)~~ "Pay band" means the minimum salary, the maximum
 494 salary, and intermediate rates that ~~which~~ are payable for work
 495 in a specific broadband level.

496 ~~(2)(31)~~ "Broadband level" means all positions that ~~which~~
 497 are sufficiently similar in knowledge, skills, and abilities;
 498 ~~the, and sufficiently similar as to~~ kind or subject matter of
 499 work; the level of difficulty or responsibility;
 500 ~~responsibilities, and qualification requirements of the work so~~
 501 as to warrant the same treatment with respect ~~as~~ to title, pay
 502 band, and other personnel transactions.

503 Section 5. Section 110.1055, Florida Statutes, is amended
 504 to read:

505 110.1055 Rules; records and rulemaking authority.-

506 (1) The department of Management Services shall adopt
 507 rules as necessary to carry out its statutory duties effectuate
 508 the provisions of this chapter, as amended by this act, and in
 509 accordance with the authority granted to the department in this
 510 chapter. All existing rules relating to this chapter are
 511 statutorily repealed January 1, 2002, unless otherwise
 512 readopted.

513 (2) In consultation with the state agencies, the
 514 department shall develop uniform personnel rules, guidelines,
 515 records, and reports relating to employees in the State
 516 Personnel System. The department may adopt rules that provide
 517 alternative requirements.

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

520 (a) Each agency must comply with the uniform rules unless:

521 1. The Administration Commission has granted an exception
 522 to a specific rule. An agency may request an exception to the
 523 uniform personnel rules by filing a petition with the
 524 commission. The commission shall approve an exception if the
 525 exception is necessary to conform to any requirement imposed as
 526 a condition precedent to receipt of federal funds or to permit
 527 persons in this state to receive tax benefits under federal law,
 528 or if required for the most efficient operation of the agency as
 529 determined by the commission. The reasons for the exception must
 530 be published in the Florida Administrative Weekly. Agency rules
 531 that provide exceptions to the uniform rules may not be adopted
 532 unless approved by the commission.

533 2. The agency must comply with a statutory provision that
 534 conflicts with the uniform rules. In such case, the agency shall
 535 notify the department, the Administration Commission, the
 536 Administrative Procedures Committee, and the appropriate
 537 standing committees of the Legislature and advise the standing
 538 committees if the agency recommends revision of the statute to
 539 conform it to the uniform rules. Agencies are encouraged to
 540 propose methods for conforming statutory provisions to the
 541 uniform rules.

542 (b) An agency that adopts rules that provide an exception
 543 to the uniform rules or that comply with statutory requirements
 544 that conflict with the uniform rules must have a separate
 545 chapter published in the Florida Administrative Code. The
 546 chapter must clearly delineate the provisions of the agency's
 547 rules which provide an exception or which are based on a
 548 conflicting statutory requirement. Each alternative chosen from
 549 those authorized by the uniform rules must be specified. Each
 550 chapter must be organized in the same manner as the uniform
 551 rules.

552 (c) Any rule adopted by an agency which is an exception to
 553 the uniform rules or which is based upon a conflicting statutory
 554 provision may not prescribe personnel policies inconsistent with
 555 the provisions of this chapter. Such rules may not include any
 556 benefits for State Personnel System employees which are in
 557 addition to, or exceed, those authorized by this chapter and
 558 must comply with all federal regulations necessary to allow the
 559 agency to receive federal funds.

560 (4) The department may develop uniform forms and

561 instructions relating to personnel transactions as the
 562 department determines necessary.

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

566 Section 6. Section 110.1056, Florida Statutes, is created
 567 to read:

568 110.1056 Agency audits.—The department may periodically
 569 audit agency records to determine compliance with this chapter
 570 and department rules.

571 Section 7. Section 110.405, Florida Statutes, is
 572 transferred, renumbered as section 110.106, Florida Statutes,
 573 and amended to read:

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

589 respect to the administration of the State Personnel System
 590 ~~Senior Management Service~~.

591 Section 8. Section 110.1065, Florida Statutes, is created
 592 to read:

593 110.1065 General employment policies and requirements.-

594 (1) It is the policy of the State Personnel System:

595 (a) That all appointments, terminations, assignments, and
 596 maintenance of status, compensation, privileges, and other terms
 597 and conditions of employment in the State Personnel System be
 598 made without regard to age, sex, race, color, religion, national
 599 origin, political affiliation, marital status, disability, or
 600 genetic information, unless a specific requirement constitutes a
 601 bona fide occupational qualification.

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

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

613 (d) To adopt and comply with the federal Family and
 614 Medical Leave Act, except for those provisions that do not
 615 specifically apply to state government employers. With regard to
 616 those provisions, the sovereign immunity of the state is not

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617 waived and the rules of the department relating to leave
 618 control.

619 (2) Except as expressly provided by law, Florida residency
 620 may not be required for any person as a condition precedent to
 621 employment; however, preference in hiring may be given to state
 622 residents.

623 (3) State agencies that use other personal services
 624 employment must comply with s. 112.907.

625 (4) Employees of the State Personnel System may be
 626 furloughed pursuant to s. 112.920.

627 (5) This chapter may not be construed to infringe upon or
 628 supersede the rights guaranteed public employees under chapter
 629 447.

630 (6) The department may adopt rules necessary to administer
 631 this section.

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

635 Section 9. Section 110.233, Florida Statutes, is
 636 transferred, renumbered as section 110.1075, Florida Statutes,
 637 and amended to read:

638 110.1075 ~~110.233~~ Political activities and unlawful acts
 639 prohibited.—

640 (1) No person shall be appointed to, demoted, or dismissed
 641 from any position in the Civil ~~career~~ Service, or in any way
 642 favored or discriminated against with respect to employment in
 643 the Civil ~~career~~ Service, because of ~~race, color, national~~
 644 ~~origin, sex, handicap, religious creed, or political opinion or~~

645 affiliation.

646 (2) No person may ~~shall~~ use or promise to use, directly or
 647 indirectly, any official authority or influence, whether
 648 possessed or anticipated, to secure or attempt to secure for any
 649 person an appointment or advantage in appointment to a position
 650 in the Civil ~~career~~ Service, or an increase in pay or other
 651 advantage in employment in any such position, for the purpose of
 652 influencing the vote or political action of any person or for
 653 any consideration. ~~+~~ However, letters of inquiry,
 654 recommendations, and references by public employees or public
 655 officials are ~~shall~~ not ~~be~~ considered political pressure unless
 656 they contain ~~any such letter contains~~ a threat, intimidation, or
 657 irrelevant, derogatory, or false information. For the purposes
 658 of this section, the term "political pressure," in addition to
 659 any appropriate meaning that ~~which~~ may be ascribed ~~thereto~~ by
 660 lawful authority, includes the use of official authority or
 661 influence in any manner prohibited by this chapter.

662 (3) No person may ~~shall~~, directly or indirectly, give,
 663 render, pay, offer, solicit, or accept any money, service, or
 664 other valuable consideration for or on account of any
 665 appointment, proposed appointment, promotion or proposed
 666 promotion to, or any advantage in, a position in the Civil
 667 ~~career~~ Service. ~~The provisions of~~ This subsection does ~~do~~ not
 668 apply to a private employment agency if ~~licensed pursuant to the~~
 669 ~~provisions of chapter 449 when~~ the services of the ~~such~~ private
 670 employment agency are requested by a state agency, ~~board,~~
 671 ~~department, or commission~~ and neither the state nor any
 672 political subdivision pays the private employment agency for

673 such services.

674 (4) As an individual, each employee retains all rights and
 675 obligations of citizenship provided in the Constitution and laws
 676 of the state and the Constitution and laws of the United States.
 677 However, an ~~no~~ employee in the Civil ~~career~~ Service may not
 678 ~~shall~~:

679 (a) Hold, or be a candidate for, public office while in
 680 the employment of the state or take an ~~any~~ active part in a
 681 political campaign while on duty or within any period of time
 682 during which the employee is expected to perform services for
 683 which he or she receives compensation from the state. However,
 684 if ~~when~~ authorized by his or her agency head and approved by the
 685 department as not involving an ~~no~~ interest that ~~which~~ conflicts
 686 or activity that ~~which~~ interferes with his or her state
 687 employment, an employee in the Civil ~~career~~ Service may be a
 688 candidate for or hold local public office. The department shall
 689 prepare and make available to all affected personnel who make
 690 such request a definite set of rules and procedures consistent
 691 with this paragraph ~~the provisions herein~~.

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

695 (5) No State Personnel System employee or official may
 696 ~~shall~~ use any promise of reward or threat of loss to encourage
 697 or coerce any employee to support or contribute to any political
 698 issue, candidate, or party.

699 (6) The department shall adopt by rule procedures for
 700 State Personnel ~~Career Service~~ System employees which ~~that~~

701 require disclosure to the agency head of any application for or
 702 offer of employment, gift, contractual relationship, or
 703 financial interest with any individual, partnership,
 704 association, corporation, utility, or other organization,
 705 whether public or private, doing business with or subject to
 706 regulation by the agency.

707 (7) The department may adopt rules necessary to administer
 708 this section.

709 Section 10. Section 110.1099, Florida Statutes, is amended
 710 to read:

711 110.1099 Elective education and professional development
 712 ~~and training~~ opportunities for ~~state~~ employees.-

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

729 funds appropriated to the agency.

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

738 (2)(3) An employee who exhibits superior aptitude and
 739 performance may be authorized by his or her ~~that employee's~~
 740 agency head to take a paid educational leave of absence for up
 741 to 1 academic year at a time, for specific approved work-related
 742 education and professional development training. The ~~That~~
 743 employee must enter into a contract to return to the agency
 744 granting the leave ~~state employment~~ for a period of time equal
 745 to the length of the leave of absence or refund the salary and
 746 benefits paid during the ~~his or her educational~~ leave of
 747 absence.

748 (3)(4) As a precondition to approving an employee's
 749 training request for an educational, professional development,
 750 or training program, an agency ~~or the judicial branch~~ may
 751 require the ~~an~~ employee to enter into an agreement which
 752 provides that, if the employee voluntarily terminates employment
 753 or is dismissed from the agency within a specified period of
 754 time, not to exceed 2 years after the conclusion of the program,
 755 ~~requires~~ the employee must ~~to~~ reimburse the agency ~~or judicial~~
 756 ~~branch~~ for up to the total cost of fees and associated expenses

757 ~~for the program if the registration fee or similar expense for~~
 758 ~~any training or training series when the total cost of the fee~~
 759 ~~or similar expense exceeds \$1,000 if the employee voluntarily~~
 760 ~~terminates employment or is discharged for cause from the agency~~
 761 ~~or judicial branch within a specified period of time not to~~
 762 ~~exceed 4 years after the conclusion of the training. This~~
 763 subsection does not apply to any ~~training~~ program or course that
 764 an agency ~~or the judicial branch~~ requires an employee to attend.
 765 An agency ~~or the judicial branch~~ may pay the outstanding balance
 766 then due and owing on behalf of an ~~a~~ state employee under this
 767 subsection in connection with the recruitment and hiring of such
 768 state employee.

769 ~~(4)(5)~~ The department may ~~of Management Services, in~~
 770 ~~consultation with the agencies and, to the extent applicable,~~
 771 ~~with Florida's public community colleges, public career centers,~~
 772 ~~and public universities, shall~~ adopt rules necessary to
 773 administer this section.

774 Section 11. Section 110.235, Florida Statutes, is
 775 transferred, renumbered as section 110.1115, Florida Statutes,
 776 and amended to read:

777 110.1115 ~~110.235~~ Training and professional development of
 778 employees.-

779 (1) State agencies shall implement training and
 780 professional development programs that encompass modern
 781 management principles, and that provide the framework to develop
 782 human resources, ~~through empowerment, training, and rewards for~~
 783 ~~productivity enhancement,~~ to continuously improve the quality of
 784 services, ~~+~~ and to satisfy the expectations of the public.

785 (2) Each state employing agency shall provide the
 786 department with training information as requested for the
 787 purpose of analyzing statewide training needs annually evaluate
 788 and report to the department the training it has implemented and
 789 the progress it has made in the area of training.

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

793 (4) In order to promote the development of managerial,
 794 executive, or administrative skills among employees, each agency
 795 may establish and administer a training program that may
 796 include, but need not be limited to:

797 (a) Improving the performance of individuals and groups of
 798 employees.

799 (b) Relating the efforts of employees to the goals of the
 800 agency.

801 (c) Strategic planning.

802 (d) Team leadership.

803 (5) The department is responsible for ensuring that
 804 appropriate state agency personnel are adequately trained in the
 805 proper administration of State Personnel System policies and
 806 procedures, compliance with all applicable federal and state
 807 workforce regulations, and the promotion of efficient and
 808 equitable employment practices. The department may host
 809 workshops, conferences, and other professional development
 810 activities that focus on the training needs of agency staff who
 811 are responsible for human resource management, training and
 812 development, and benefits administration.

813 (a) The department may coordinate with the appropriate
 814 business units of the state universities or community colleges
 815 for the purpose of sponsoring conferences and expositions that
 816 provide continuing professional development to the agencies in
 817 the areas of human resource management, payroll and benefits
 818 administration, and other topics critical to the proper
 819 administration of the state workforce.

820 (b) For the purposes of leveraging resources and promoting
 821 best practices, the department may open such conferences to all
 822 state and local public employers who have shared interests in
 823 public-sector human resource management and related topics.

824 (6) The department may adopt rules necessary to administer
 825 this section.

826 Section 12. Section 110.112, Florida Statutes, is amended
 827 to read:

828 110.112 ~~Affirmative action;~~ Equal employment opportunity.-

829 (1) It ~~is shall be~~ the policy of the State Personnel
 830 System to assist in ensuring ~~providing the assurance of~~ equal
 831 employment opportunity through programs of affirmative and
 832 positive action that ~~will~~ allow full utilization of women and
 833 minorities.

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

839 (a)(b) Each ~~executive~~ agency shall establish annual goals
 840 for ensuring the full utilization of groups underrepresented in

841 | its workforce as compared to the relevant labor market, as
 842 | defined by the agency. Each ~~executive~~ agency shall design its
 843 | affirmative action plan to meet its established goals.

844 | ~~(b)(e)~~ An equal ~~affirmative action equal~~ employment
 845 | opportunity officer shall be appointed by the head of each
 846 | ~~executive~~ agency. ~~The affirmative action equal employment~~
 847 | ~~opportunity officer's responsibilities must include determining~~
 848 | ~~annual goals, monitoring agency compliance, and providing~~
 849 | ~~consultation to managers regarding progress, deficiencies, and~~
 850 | ~~appropriate corrective action.~~

851 | ~~(c)(d)~~ The department shall report information in its
 852 | annual workforce report relating to the demographic composition
 853 | of the workforce of the State Personnel System as compared to
 854 | the relevant state labor market implementation, continuance,
 855 | updating, and results of each executive agency's affirmative
 856 | action plan for the previous fiscal year. The agencies shall
 857 | provide the department with the information necessary to comply
 858 | with this paragraph.

859 | ~~(e)~~ The department shall provide to all supervisory
 860 | personnel of the executive agencies training in the principles
 861 | ~~of equal employment opportunity and affirmative action, the~~
 862 | ~~development and implementation of affirmative action plans, and~~
 863 | ~~the establishment of annual affirmative action goals. The~~
 864 | ~~department may contract for training services, and each~~
 865 | ~~participating agency shall reimburse the department for costs~~
 866 | ~~incurred through such contract. After the department approves~~
 867 | ~~the contents of the training program for the agencies, the~~
 868 | ~~department may delegate this training to the executive agencies.~~

869 ~~(3) Each state attorney and public defender shall:~~
 870 ~~(a) Develop and implement an affirmative action plan.~~
 871 ~~(b) Establish annual goals for ensuring full utilization~~
 872 ~~of groups underrepresented in its workforce as compared to the~~
 873 ~~relevant labor market in this state. The state attorneys' and~~
 874 ~~public defenders' affirmative action plans must be designed to~~
 875 ~~meet the established goals.~~

876 ~~(c) Appoint an affirmative action equal employment~~
 877 ~~opportunity officer.~~

878 ~~(d) Report annually to the Justice Administrative~~
 879 ~~Commission on the implementation, continuance, updating, and~~
 880 ~~results of his or her affirmative action program for the~~
 881 ~~previous fiscal year.~~

882 ~~(3)(4) Each The state agency, its agencies and officers~~
 883 ~~shall ensure freedom from discrimination in employment in~~
 884 ~~accordance with applicable state and federal laws as provided by~~
 885 ~~the Florida Civil Rights Act of 1992, by s. 112.044, and by this~~
 886 ~~chapter.~~

887 ~~(4) All recruitment literature that references State~~
 888 ~~Personnel System position vacancies must contain the phrase "An~~
 889 ~~Equal Opportunity Employer."~~

890 ~~(5) An Any individual claiming to be aggrieved by an~~
 891 ~~unlawful employment practice may file a complaint with the~~
 892 ~~Florida Commission on Human Relations as provided by s. 760.11.~~

893 ~~(6) The department may adopt rules necessary to administer~~
 894 ~~shall review and monitor executive agency actions in carrying~~
 895 ~~out the rules adopted by the department pursuant to this~~
 896 ~~section.~~

897 Section 13. Section 110.1135, Florida Statutes, is created
 898 to read:

899 110.1135 Attendance and leave records.—Each state agency
 900 shall keep an accurate record of all hours of work performed by
 901 each employee, as well as a complete and accurate record of all
 902 authorized leave. The ultimate responsibility for the accuracy
 903 and proper maintenance of all attendance and leave records is
 904 with the agency head.

905 Section 14. Section 110.116, Florida Statutes, is amended
 906 to read:

907 110.116 Human resource ~~Personnel~~ information system;
 908 payroll procedures.—

909 (1) The department ~~of Management Services~~ shall establish
 910 and maintain, in coordination with the payroll system of the
 911 Department of Financial Services, a complete human resource
 912 ~~personnel~~ information system for all authorized and established
 913 positions in the State Personnel System ~~service, with the~~
 914 ~~exception of employees of the Legislature, unless the~~
 915 ~~Legislature chooses to participate.~~ The department may contract
 916 with a vendor to provide the human resource ~~personnel~~
 917 information system. The specifications shall be developed in
 918 conjunction with the payroll system of the Department of
 919 Financial Services and in coordination with the Auditor General.
 920 The Department of Financial Services shall determine that the
 921 position occupied by each employee has been authorized and
 922 established in accordance with ~~the provisions of s. 216.251.~~ The
 923 human resource information system must include ~~Department of~~
 924 ~~Management Services shall develop and maintain~~ a position

925 numbering system that identifies ~~will identify~~ each established
 926 position, and such information shall be a part of the payroll
 927 system of the Department of Financial Services. The ~~With the~~
 928 ~~exception of employees of the Legislature, unless the~~
 929 ~~Legislature chooses to participate, this system~~ must shall
 930 include all civil ~~career~~ service positions and those positions
 931 exempted from the Civil ~~career~~ Service ~~provisions,~~
 932 notwithstanding the funding source of the salary payments, and
 933 information regarding persons receiving salary payments from
 934 other sources. Necessary revisions shall be made in the
 935 personnel and payroll procedures of the state to avoid
 936 duplication insofar as is feasible to do so. The information in
 937 the system must ~~A list shall~~ be organized by budget entity to
 938 show the employees or vacant positions within each budget
 939 entity. The information ~~This list~~ shall be made available to the
 940 Speaker of the House of Representatives and the President of the
 941 Senate upon request.

942 (2) The department may adopt rules necessary to administer
 943 this section.

944 Section 15. Section 110.1245, Florida Statutes, is amended
 945 to read:

946 110.1245 ~~Savings sharing program;~~ Bonus payments; other
 947 awards.-

948 ~~(1)(a) The Department of Management Services shall adopt~~
 949 ~~rules that prescribe procedures and promote a savings sharing~~
 950 ~~program for an individual or group of employees who propose~~
 951 ~~procedures or ideas that are adopted and that result in~~
 952 ~~eliminating or reducing state expenditures, if such proposals~~

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953 ~~are placed in effect and may be implemented under current~~
 954 ~~statutory authority.~~

955 ~~(b) Each agency head shall recommend employees~~
 956 ~~individually or by group to be awarded an amount of money, which~~
 957 ~~amount shall be directly related to the cost savings realized.~~
 958 ~~Each proposed award and amount of money must be approved by the~~
 959 ~~Legislative Budget Commission.~~

960 ~~(c) Each state agency, unless otherwise provided by law,~~
 961 ~~may participate in the program. The Chief Justice shall have the~~
 962 ~~authority to establish a savings sharing program for employees~~
 963 ~~of the judicial branch within the parameters established in this~~
 964 ~~section. The program shall apply to all employees within the~~
 965 ~~Career Service, the Selected Exempt Service, and comparable~~
 966 ~~employees within the judicial branch.~~

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

- 972 ~~1. The number of proposals made.~~
- 973 ~~2. The number of dollars and awards made to employees or~~
 974 ~~groups for adopted proposals.~~
- 975 ~~3. The actual cost savings realized as a result of~~
 976 ~~implementing employee or group proposals.~~

977 ~~(1)(2) State agencies may pay In June of each year,~~
 978 ~~bonuses shall be paid to employees from funds authorized by the~~
 979 ~~Legislature in an appropriation specifically for bonuses.~~
 980 Bonuses shall be distributed in accordance with the criteria and

981 instructions provided in the General Appropriations Act. Each
 982 ~~agency shall develop a plan for awarding lump sum bonuses, which~~
 983 ~~plan shall be submitted no later than September 15 of each year~~
 984 ~~and approved by the Office of Policy and Budget in the Executive~~
 985 ~~Office of the Governor. Such plan shall include, at a minimum,~~
 986 ~~but is not limited to:~~

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

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

990 ~~1. The employee must have been employed prior to July 1 of~~
 991 ~~that fiscal year and have been continuously employed through the~~
 992 ~~date of distribution.~~

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

995 ~~3. The employee must have had no sustained disciplinary~~
 996 ~~action during the period beginning July 1 through the date the~~
 997 ~~bonus checks are distributed. Disciplinary actions include~~
 998 ~~written reprimands, suspensions, dismissals, and involuntary or~~
 999 ~~voluntary demotions that were associated with a disciplinary~~
 1000 ~~action.~~

1001 ~~4. The employee must have demonstrated a commitment to the~~
 1002 ~~agency mission by reducing the burden on those served,~~
 1003 ~~continually improving the way business is conducted, producing~~
 1004 ~~results in the form of increased outputs, and working to improve~~
 1005 ~~processes.~~

1006 ~~5. The employee must have demonstrated initiative in work~~
 1007 ~~and have exceeded normal job expectations.~~

1008 ~~6. The employee must have modeled the way for others by~~

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1009 ~~displaying agency values of fairness, cooperation, respect,~~
 1010 ~~commitment, honesty, excellence, and teamwork.~~

1011 ~~(c) A periodic evaluation process of the employee's~~
 1012 ~~performance.~~

1013 ~~(d) A process for peer input that is fair, respectful of~~
 1014 ~~employees, and affects the outcome of the bonus distribution.~~

1015 ~~(e) A division of the agency by work unit for purposes of~~
 1016 ~~peer input and bonus distribution.~~

1017 ~~(f) A limitation on bonus distributions equal to 35~~
 1018 ~~percent of the agency's total authorized positions. This~~
 1019 ~~requirement may be waived by the Office of Policy and Budget in~~
 1020 ~~the Executive Office of the Governor upon a showing of~~
 1021 ~~exceptional circumstances.~~

1022 (2)(3) Consistent with the requirements of s. 215.425(3),
 1023 and limited to the funds provided in the agency's approved
 1024 operating budget for salaries and benefits, each agency head may
 1025 provide bonus awards to department head is authorized to incur
 1026 expenditures to award suitable framed certificates, pins, and
 1027 other tokens of recognition to retiring state employees based on
 1028 exemplary performance or whose service with the state has been
 1029 satisfactory, in appreciation of their role in the achievement
 1030 of the agency's mission, values, or goals and recognition of
 1031 such service.

1032 (a) Each award ~~Such awards may not exceed \$1,000 cost in~~
 1033 ~~excess of \$100 each plus applicable taxes. No employee may~~
 1034 receive awards totaling more than \$1,000 plus applicable taxes
 1035 per fiscal year.

1036 (b) By September 1, agencies shall report to the Governor,

1037 the President of the Senate, and the Speaker of the House of
 1038 Representatives the dollar value and number of such bonus awards
 1039 given in the previous fiscal year.

1040 ~~(3)-(4) Each agency department head may is authorized to~~
 1041 ~~incur expenditures to award suitable framed certificates, pins,~~
 1042 ~~and ~~or~~ other noncash tokens of recognition. Each token to state~~
 1043 ~~employees who demonstrate satisfactory service in the agency or~~
 1044 ~~to the state, in appreciation and recognition of such service.~~
 1045 ~~Such awards may not cost more than \$150 in excess of \$100 each~~
 1046 ~~plus applicable taxes. Such tokens may be awarded to:~~

1047 (a) Current employees, in appreciation and recognition of
 1048 their service to the state.

1049 (b) Retiring employees, in appreciation and recognition of
 1050 their service to the state.

1051 (c) An appointed member of a state board or commission, in
 1052 appreciation and recognition of his or her service to the state
 1053 upon the expiration of the member's final term in such position.

1054 (4) The department may adopt rules necessary to administer
 1055 this section.

1056 ~~(5) Each department head is authorized to incur~~
 1057 ~~expenditures not to exceed \$100 each plus applicable taxes for~~
 1058 ~~suitable framed certificates, plaques, or other tokens of~~
 1059 ~~recognition to any appointed member of a state board or~~
 1060 ~~commission whose service to the state has been satisfactory, in~~
 1061 ~~appreciation and recognition of such service upon the expiration~~
 1062 ~~of such board or commission member's final term in such~~
 1063 ~~position.~~

1064 Section 16. Section 110.125, Florida Statutes, is amended

1065 to read:

1066 110.125 Administrative costs.—

1067 (1) The administrative expenses and costs of operating the
 1068 State Personnel System ~~program~~ established by this chapter shall
 1069 be paid by the state ~~various~~ agencies ~~of the state government~~,
 1070 and each such agency shall include in its budget estimates its
 1071 pro rata share of such cost as determined by the department ~~of~~
 1072 Management Services.

1073 (a) To establish an equitable division of ~~the~~ costs, the
 1074 amount to be paid by each agency shall be based on the number of
 1075 authorized full-time equivalent positions appropriated to the
 1076 agency, the average number of other-personal-services employees
 1077 paid by the agency, and the total administrative expenses and
 1078 costs of operating the State Personnel System ~~determined in such~~
 1079 ~~proportion as the service rendered to each agency bears to the~~
 1080 ~~total service rendered under the provisions of this chapter. The~~
 1081 ~~amounts paid to the Department of Management Services which are~~
 1082 ~~attributable to positions within the Senior Management Service~~
 1083 ~~and the Selected Professional Service shall be used for the~~
 1084 ~~administration of such services, training activities for~~
 1085 ~~positions within those services, and the development and~~
 1086 ~~implementation of a database of pertinent historical information~~
 1087 ~~on exempt positions.~~

1088 (b) If a ~~Should any~~ state agency is ~~become~~ more than 90
 1089 days delinquent in paying ~~payment of~~ this obligation, the
 1090 department shall certify to the Chief Financial Officer the
 1091 amount due and the Chief Financial Officer shall transfer that
 1092 ~~the amount due to the department~~ from any available debtor

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1093 agency funds ~~available~~.

1094 (2) A governmental entity outside the State Personnel
 1095 System which receives or uses services of more than a de minimis
 1096 value from the personnel system shall pay the department for the
 1097 administrative expenses and costs associated with those services
 1098 as determined by the department. Each such entity shall include
 1099 such cost in its budget estimates. If a governmental entity
 1100 becomes more than 90 days delinquent in paying this obligation,
 1101 the department shall certify to the Chief Financial Officer the
 1102 amount due and the Chief Financial Officer shall transfer that
 1103 amount from any available debtor entity funds.

1104 (3) The department may adopt rules necessary to administer
 1105 this section.

1106 Section 17. Section 110.126, Florida Statutes, is amended
 1107 to read:

1108 110.126 Oaths, testimony, records; penalties.-

1109 (1) The department may shall have power to administer
 1110 oaths, subpoena witnesses, and compel the production of books,
 1111 and papers, or other records, in written or electronic form,
 1112 relevant ~~pertinent~~ to any investigation of personnel practices
 1113 or hearing authorized by this chapter. Any person who fails
 1114 ~~shall fail~~ to appear in response to a subpoena or to answer any
 1115 question or produce any books, ~~or~~ papers, or other records
 1116 relevant ~~pertinent~~ to any such investigation or hearing or who
 1117 ~~shall~~ knowingly gives ~~give~~ false testimony commits ~~therein shall~~
 1118 ~~be guilty of~~ a misdemeanor of the first degree, punishable as
 1119 provided in s. 775.082 or s. 775.083.

1120 (2) The department may adopt rules necessary to administer

1121 this section.

1122 Section 18. Section 110.127, Florida Statutes, is amended
1123 to read:

1124 110.127 Penalties.—

1125 (1) Any person who willfully violates any provision of
1126 this chapter or ~~of any~~ rules adopted pursuant to this chapter
1127 commits ~~the authority herein granted is guilty of~~ a misdemeanor
1128 of the second degree, punishable as provided in s. 775.082 or s.
1129 775.083.

1130 (2) ~~The provisions of s. 112.011 to the contrary~~
1131 Notwithstanding s. 112.011, any person who is convicted of a
1132 misdemeanor under this chapter is ~~shall be, for a period of 5~~
1133 ~~years,~~ ineligible for appointment to or employment in a state
1134 position for 5 years ~~in the state service~~ and, if an employee of
1135 the state, must ~~shall~~ forfeit his or her position.

1136 (3) Imposition of the penalties provided in this section
1137 may ~~shall~~ not be in lieu of any action that ~~which~~ may be taken
1138 or penalties that ~~which~~ may be imposed pursuant to part III of
1139 chapter 112.

1140 (4) The department may adopt rules necessary to administer
1141 this section.

1142 Section 19. Section 110.2037, Florida Statutes, is
1143 transferred, renumbered as section 110.182, Florida Statutes,
1144 and amended to read:

1145 110.182 ~~110.2037~~ ~~Alternative benefits,~~ Tax-sheltered
1146 annual leave and sick leave payments and special compensation
1147 payments.—

1148 (1) The department may ~~of Management Services has~~

1149 ~~authority to~~ adopt tax-sheltered plans under s. 401(a) of the
 1150 Internal Revenue Code for ~~state~~ employees who are eligible for
 1151 payment for accumulated leave. ~~The department,~~ Upon adoption of
 1152 the plans, the department shall contract for a private vendor or
 1153 vendors to administer the plans.

1154 (a) These plans are ~~shall be~~ limited to ~~state~~ employees
 1155 who are over age 55 and who are+ eligible for accumulated leave
 1156 and special compensation payments and separating from employment
 1157 with 10 years of service in accordance with the Internal Revenue
 1158 Code, or who are participating in the Deferred Retirement Option
 1159 Program on or after July 1, 2001.

1160 (b) The plans must provide benefits in a manner that
 1161 minimizes the tax liability of the state and participants.

1162 (c) The plans must be funded by employer contributions of
 1163 payments for accumulated leave or special compensation payments,
 1164 or both, as specified by the department.

1165 (d) The plans must have received all necessary federal and
 1166 state approval as required by law, must not adversely impact the
 1167 qualified status of the Florida Retirement System defined
 1168 benefit or defined contribution plans or the pretax benefits
 1169 program, and must comply with ~~the provisions of~~ s. 112.65.

1170 Adoption of any plan is contingent on: the department receiving
 1171 appropriate favorable rulings from the Internal Revenue Service;
 1172 the department negotiating under the provisions of chapter 447,
 1173 where applicable; and the Chief Financial Officer making
 1174 appropriate changes to the state payroll system.

1175 (e) The department's request for proposals by vendors for
 1176 such plans may require that ~~the~~ vendors provide market-risk or

1177 | volatility ratings from recognized rating agencies for each of
 1178 | their investment products.

1179 | (f) The department shall provide ~~for~~ a system of
 1180 | continuous quality assurance oversight to ensure that the
 1181 | program objectives are achieved and that the program is
 1182 | prudently managed.

1183 | (2) Within 30 days after termination of employment, an
 1184 | employee may ~~elect to~~ withdraw the moneys and no ~~without~~ penalty
 1185 | may be assessed by the plan administrator. If an ~~any~~ employee is
 1186 | adversely affected by payment of an excise tax or an ~~any~~
 1187 | Internal Revenue Service penalty by withdrawing ~~electing to~~
 1188 | ~~withdraw~~ funds within 30 days, the plan must ~~shall~~ include a
 1189 | provision that provides ~~which will provide~~ the employee with no
 1190 | less cash than if the employee had not participated in the plan.

1191 | (3) These contracts may be used by any other pay plans or
 1192 | personnel systems in the executive, legislative, or judicial
 1193 | branches of government upon approval of the appropriate
 1194 | administrative authority.

1195 | (4) Notwithstanding the terminal pay provisions of s.
 1196 | 112.913 ~~110.122~~, the department may contract for a tax-sheltered
 1197 | plan for leave and special compensation pay for employees who
 1198 | are terminating over age 55 and have ~~with~~ 10 years of service,
 1199 | and for employees participating in the Deferred Retirement
 1200 | Option Program on or after July 1, 2001, ~~and~~ who are over age
 1201 | 55. The frequency of payments into the plan shall be determined
 1202 | by the department or as provided in the General Appropriations
 1203 | Act. This plan must ~~or plans shall~~ provide the greatest tax
 1204 | benefits to the employees and maximize the savings to the state.

1205 (5) The department shall determine by rule the design of
 1206 the plans and the eligibility of participants.

1207 (6) ~~Nothing in This section does not shall be construed to~~
 1208 ~~remove plan participants from the scope of s. 112.913(5)~~
 1209 ~~110.122(5).~~

1210 (7) The department may adopt rules necessary to administer
 1211 this section.

1212 Section 20. Section 110.201, Florida Statutes, is
 1213 transferred, renumbered as section 110.183, Florida Statutes,
 1214 and amended to read:

1215 110.183 ~~110.201~~ Collective bargaining Personnel rules,
 1216 ~~records, and reports.-~~

1217 ~~(1)(a) The department, in consultation with agencies that~~
 1218 ~~must comply with these rules, shall develop uniform personnel~~
 1219 ~~rules, guidelines, records, and reports relating to employees~~
 1220 ~~and positions in the career service. Agencies must comply with~~
 1221 ~~the uniform rules, except as provided in this section. The~~
 1222 ~~department may adopt rules that provide alternative~~
 1223 ~~requirements. Upon filing with the Department of State, the~~
 1224 ~~appropriate uniform rules will constitute the personnel rules~~
 1225 ~~for each agency subject to this act unless the Administration~~
 1226 ~~Commission grants an exception to a specific rule to an agency~~
 1227 ~~upon the agency's request or unless the agency must comply with~~
 1228 ~~a statutory provision that conflicts with the uniform rules. If~~
 1229 ~~an agency must comply with a statutory provision that conflicts~~
 1230 ~~with the uniform rules, the agency must notify the~~
 1231 ~~Administration Commission, the Administrative Procedures~~
 1232 ~~Committee, and the appropriate standing committees of the~~

1233 ~~Legislature and advise the standing committees whether the~~
 1234 ~~agency recommends revision of the statute to conform it to the~~
 1235 ~~uniform rules. Agencies are encouraged to propose methods of~~
 1236 ~~conforming statutory provisions to the uniform personnel rules.~~

1237 ~~(b) An agency may request an exception to the uniform~~
 1238 ~~personnel rules by filing a petition with the Administration~~
 1239 ~~Commission. The Administration Commission shall approve an~~
 1240 ~~exception when the exception is necessary to conform to any~~
 1241 ~~requirement imposed as a condition precedent to receipt of~~
 1242 ~~federal funds or to permit persons in this state to receive tax~~
 1243 ~~benefits under federal law, or as required for the most~~
 1244 ~~efficient operation of the agency as determined by the~~
 1245 ~~Administration Commission. The reasons for the exception must be~~
 1246 ~~published in the Florida Administrative Weekly.~~

1247 ~~(c) Agency rules that provide exceptions to the uniform~~
 1248 ~~personnel rules may not be filed with the Department of State~~
 1249 ~~unless the Administration Commission has approved the~~
 1250 ~~exceptions. Each agency that adopts rules that provide~~
 1251 ~~exceptions to the uniform rules or that must comply with~~
 1252 ~~statutory requirements that conflict with the uniform rules must~~
 1253 ~~have a separate chapter published in the Florida Administrative~~
 1254 ~~Code which clearly delineates the provisions of the agency's~~
 1255 ~~rules which provide exceptions or are based upon a conflicting~~
 1256 ~~statutory requirement. Each alternative chosen from those~~
 1257 ~~authorized by the uniform rules must be specified. Each chapter~~
 1258 ~~must be organized in the same manner as the uniform rules.~~

1259 ~~(d) The department shall develop uniform forms and~~
 1260 ~~instructions to be used in reporting transactions which involve~~

1261 ~~changes in an employee's salary, status, performance, leave,~~
 1262 ~~fingerprint record, loyalty oath, payroll change, appointment~~
 1263 ~~action, or any additional transactions as the department may~~
 1264 ~~determine appropriate.~~

1265 ~~(e) It is the responsibility of the employing agency to~~
 1266 ~~maintain these records and all other records and reports~~
 1267 ~~prescribed in applicable rules on a current basis.~~

1268 ~~(2) Each employing agency shall operate within the uniform~~
 1269 ~~personnel rules promulgated by the department under this~~
 1270 ~~chapter. Any rule adopted by an employing agency that is an~~
 1271 ~~exception to the uniform personnel rules or that is based upon a~~
 1272 ~~statutory provision that an agency must follow but which~~
 1273 ~~conflicts with the uniform personnel rules may not prescribe any~~
 1274 ~~personnel policies inconsistent with the provisions of this~~
 1275 ~~chapter. Neither the rules of the department nor the rules of an~~
 1276 ~~employing agency may include any benefits for career service~~
 1277 ~~employees which are in excess of, or in addition to, those~~
 1278 ~~authorized by this chapter.~~

1279 ~~(3) The rules adopted by the department and each employing~~
 1280 ~~agency under this part shall comply with all federal regulations~~
 1281 ~~necessary to permit the state agencies to be eligible to receive~~
 1282 ~~federal funds.~~

1283 ~~(4) The department shall coordinate with the Governor and~~
 1284 ~~the state agencies consult with the Administration Commission on~~
 1285 ~~personnel matters falling within the scope of collective~~
 1286 ~~bargaining and shall represent the Governor in collective~~
 1287 ~~bargaining negotiations and other collective bargaining matters~~
 1288 ~~as may be necessary. All discussions relative to collective~~

1289 bargaining between the department and the Governor, ~~and~~ between
 1290 the department and the ~~Administration Commission or~~ agency
 1291 heads, or between any of their respective representatives are,
 1292 ~~relative to collective bargaining,~~ shall be exempt from the
 1293 ~~provisions of~~ s. 286.011, and all work products relative to
 1294 collective bargaining developed in conjunction with such
 1295 discussions are ~~shall be~~ confidential and exempt from the
 1296 ~~provisions of~~ s. 119.07(1).

1297 ~~(5) The department shall develop a workforce report that~~
 1298 ~~contains data representative of the state's human resources. The~~
 1299 ~~report should identify trends for planning and improving the~~
 1300 ~~management of the state's human resources. The department shall~~
 1301 ~~submit this report annually to the Governor, the President of~~
 1302 ~~the Senate, and the Speaker of the House of Representatives.~~

1303 Section 21. Section 110.184, Florida Statutes, is created
 1304 to read:

1305 110.184 Workforce report.—The department shall prepare a
 1306 workforce report on human resources in the State Personnel
 1307 System. The report shall provide data and identify trends for
 1308 planning and improving the management of the State Personnel
 1309 System. The department shall annually submit the report to the
 1310 Governor, the President of the Senate, and the Speaker of the
 1311 House of Representatives.

1312 Section 22. The Division of Statutory Revision is
 1313 requested to rename part II of chapter 110, Florida Statutes, as
 1314 "Civil Service."

1315 Section 23. Section 110.202, Florida Statutes, is created
 1316 to read:

1317 110.202 Declaration of policy.—This part creates the Civil
 1318 Service System within the State Personnel System as required by
 1319 s. 14, Art. III of the State Constitution.

1320 Section 24. Section 110.205, Florida Statutes, is amended
 1321 to read:

1322 110.205 Civil Career Service; exemptions.—

1323 (1) CIVIL SERVICE CAREER POSITIONS.—The Civil career
 1324 Service to which this part applies includes all positions within
 1325 the State Personnel System not specifically exempted by this
 1326 section part, notwithstanding any other provisions of law the
 1327 Florida Statutes to the contrary notwithstanding.

1328 (2) EXEMPT POSITIONS.—The ~~exempt positions that are not~~
 1329 ~~covered by this part include the following~~ positions are
 1330 exempted from the Civil Service:

1331 (a) Elected officers.—All officers of the executive branch
 1332 elected by popular vote and persons appointed to fill vacancies
 1333 in such offices. Unless otherwise fixed by law, the salary and
 1334 benefits for an any such officer who serves as the head of an
 1335 agency a department shall be set by the department in accordance
 1336 with the rules of the Senior Management Service.

1337 (b) Legislative branch.—All members, officers, and
 1338 employees of the legislative branch, except for the members,
 1339 officers, and employees of the Florida Public Service
 1340 Commission.

1341 (c) Judicial branch.—All members, officers, and employees
 1342 of the judicial branch.

1343 (d) State universities.—All officers and employees of the
 1344 state universities ~~and the academic personnel and academic~~

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1345 ~~administrative personnel of the Florida School for the Deaf and~~
 1346 ~~the Blind. In accordance with the provisions of s. 1002.36, the~~
 1347 ~~salaries for academic personnel and academic administrative~~
 1348 ~~personnel of the Florida School for the Deaf and the Blind shall~~
 1349 ~~be set by the board of trustees for the school, subject only to~~
 1350 ~~the approval of the State Board of Education.~~

1351 ~~(e) The Chief Information Officer in the Agency for~~
 1352 ~~Enterprise Information Technology. Unless otherwise fixed by~~
 1353 ~~law, the Agency for Enterprise Information Technology shall set~~
 1354 ~~the salary and benefits of this position in accordance with the~~
 1355 ~~rules of the Senior Management Service.~~

1356 (e)-(f) Members of boards and commissions.-All members of
 1357 state boards and commissions, however selected. Unless otherwise
 1358 fixed by law, the salary and benefits for any full-time board or
 1359 commission member shall be set by the department in accordance
 1360 with the rules of the Senior Management Service.

1361 ~~(g) Judges, referees, and receivers.~~

1362 ~~(h) Patients or inmates in state institutions.~~

1363 (f)-(i) Time-limited positions.-All positions that are
 1364 established for a limited period of time for the purpose of
 1365 conducting a special study, project, or investigation and any
 1366 person paid from an other-personal-services appropriation.
 1367 Unless otherwise fixed by law, the salaries for such positions
 1368 and persons shall be set in accordance with rules established by
 1369 the employing agency for other-personal-services payments
 1370 pursuant to s. 112.907 ~~110.131~~.

1371 (g)-(j) Executive-level positions.-The appointed
 1372 secretaries and the State Surgeon General, assistant

1373 secretaries, deputy secretaries, and deputy assistant
 1374 secretaries of all agencies ~~departments~~; the executive
 1375 directors, assistant executive directors, deputy executive
 1376 directors, and deputy assistant executive directors of all
 1377 agencies ~~departments~~; the directors of all divisions and those
 1378 positions determined by the department to have managerial
 1379 responsibilities comparable to such positions, including ~~which~~
 1380 ~~positions include~~, but are not limited to, program directors,
 1381 assistant program directors, district administrators, deputy
 1382 district administrators, general counsels, chief cabinet aides,
 1383 public information administrators or comparable positions for a
 1384 cabinet officer, inspectors general, or legislative affairs
 1385 directors; and ~~the Director of Central Operations Services of~~
 1386 ~~the Department of Children and Family Services,~~ the State
 1387 Transportation Development Administrator, the State Public
 1388 Transportation and Modal Administrator, district secretaries,
 1389 district directors of transportation development, transportation
 1390 operations, and transportation support, ~~and~~ the managers of the
 1391 Department of Transportation offices specified in s.
 1392 20.23(4)(b), the county health department directors and county
 1393 health department administrators of the Department of Health,
 1394 and the one additional position that may be designated by each
 1395 agency and that reports directly to the agency head or to a
 1396 position in the Senior Management Service and whose additional
 1397 costs are absorbed from the existing budget of that agency ~~of~~
 1398 ~~the Department of Transportation~~. Unless otherwise fixed by law,
 1399 the department shall set the salary and benefits of these
 1400 positions in accordance with the rules of the Senior Management

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1401 ~~Service, and the county health department directors and county~~
 1402 ~~health department administrators of the Department of Health.~~

1403 ~~(k) The personal secretary to the incumbent of each~~
 1404 ~~position exempted in paragraphs (a), (e), and (j). Unless~~
 1405 ~~otherwise fixed by law, the department shall set the salary and~~
 1406 ~~benefits of these positions in accordance with the rules of the~~
 1407 ~~Selected Exempt Service.~~

1408 (h)(1) Executive Office of the Governor.—All officers and
 1409 employees in the office of the Governor, including all employees
 1410 at the Governor's mansion, and employees within each separate
 1411 budget entity, as defined in chapter 216, assigned to the
 1412 Governor. Unless otherwise fixed by law, the salary and benefits
 1413 of these positions shall be set by the department as follows:

1414 1. The chief of staff, ~~the~~ assistant or deputy chief of
 1415 staff, general counsel, Director of Legislative Affairs, chief
 1416 inspector general, Director of Cabinet Affairs, Director of
 1417 Press Relations, Director of Planning and Budgeting, Director of
 1418 Administration, director of state-federal relations, Director of
 1419 Appointments, Director of External Affairs, Deputy General
 1420 Counsel, Governor's liaison for community development, chief of
 1421 staff for the Lieutenant Governor, deputy director of planning
 1422 and budgeting, policy coordinators, and ~~the~~ director of each
 1423 separate budget entity shall have their salaries and benefits
 1424 set established by the department in accordance with the rules
 1425 of the Senior Management Service.

1426 2. The salaries and benefits of positions not established
 1427 in subparagraph 1. ~~sub-subparagraph a.~~ shall be set by the
 1428 employing agency. Salaries and benefits of employees whose

1429 professional training is comparable to that of licensed
 1430 professionals under paragraph (n) ~~(r)~~, or whose administrative
 1431 responsibility is comparable to a bureau chief shall be set by
 1432 the rules of the Selected Exempt Service. The department shall
 1433 make the comparability determinations. Other employees shall
 1434 have benefits set comparable to legislative staff, except leave
 1435 shall be comparable to civil ~~career~~ service ~~as if career service~~
 1436 employees.

1437 (i) ~~(m)~~ Upper-management positions.—All assistant division
 1438 director, deputy division director, and bureau chief positions
 1439 in any agency ~~department~~, and those positions determined by the
 1440 department to have managerial responsibilities comparable to
 1441 such positions. Unless otherwise fixed by law, the salaries of
 1442 benefits of these positions shall be set by the department in
 1443 accordance with the rules of the Selected Exempt Service. These
 1444 positions, ~~which~~ include, but are not limited to:

1445 1. Positions in the Department of Health and the
 1446 Department of Children and Family Services which ~~that~~ are
 1447 assigned primary duties of serving as the superintendent or
 1448 assistant superintendent of an institution.

1449 2. Positions in the Department of Corrections which ~~that~~
 1450 are assigned primary duties of serving as the warden, assistant
 1451 warden, colonel, or major of an institution or which ~~that~~ are
 1452 assigned primary duties of serving as the circuit administrator
 1453 or deputy circuit administrator.

1454 3. Positions in the Department of Transportation which
 1455 ~~that~~ are assigned primary duties of serving as regional toll
 1456 managers and managers of offices, as defined in s. 20.23(4)(b)

1457 and (5)(c).

1458 4. Positions in the Department of Environmental Protection
 1459 which that are assigned the duty of an environmental
 1460 administrator or program administrator.

1461 5. Positions in the Department of Health which that are
 1462 assigned the duties of environmental administrator, assistant
 1463 county health department director, and county health department
 1464 financial administrator.

1465 6. Positions in the Department of Children and Family
 1466 Services which are assigned the duties of staff director,
 1467 assistant staff director, district program manager, district
 1468 program coordinator, district administrator, district
 1469 administrative services director, district attorney, and deputy
 1470 director of central operations services.

1471
 1472 ~~Unless otherwise fixed by law, the department shall set the~~
 1473 ~~salary and benefits of the positions listed in this paragraph in~~
 1474 ~~accordance with the rules established for the Selected Exempt~~
 1475 ~~Service.~~

1476 (j)(n) Other managerial or policymaking positions.-

1477 1.a. In addition to those positions exempted by other
 1478 paragraphs of this subsection, each agency department head may
 1479 designate a maximum of 20 policymaking or managerial positions,
 1480 as defined by the department and approved by the Administration
 1481 Commission, as being exempt from the Civil Career Service
 1482 ~~System~~. Civil Career service employees who occupy a position
 1483 designated as a position in the Selected Exempt Service under
 1484 this paragraph may shall have the right to remain in the Civil

1485 ~~Career Service System~~ by opting to serve in a position not
 1486 exempted by the employing agency. Unless otherwise fixed by law,
 1487 the department shall set the salary and benefits of these
 1488 positions in accordance with the rules of the Selected Exempt
 1489 Service; ~~provided, however, that if the agency head determines~~
 1490 ~~that the general counsel, chief Cabinet aide, public information~~
 1491 ~~administrator or comparable position for a Cabinet officer,~~
 1492 ~~inspector general, or legislative affairs director has both~~
 1493 ~~policymaking and managerial responsibilities and if the~~
 1494 ~~department determines that any such position has both~~
 1495 ~~policymaking and managerial responsibilities, the salary and~~
 1496 ~~benefits for each such position shall be established by the~~
 1497 ~~department in accordance with the rules of the Senior Management~~
 1498 ~~Service.~~

1499 ~~b. In addition, each department may designate one~~
 1500 ~~additional position in the Senior Management Service if that~~
 1501 ~~position reports directly to the agency head or to a position in~~
 1502 ~~the Senior Management Service and if any additional costs are~~
 1503 ~~absorbed from the existing budget of that department.~~

1504 2. If otherwise exempt from the Civil Service, employees
 1505 of the Public Employees Relations Commission, the Commission on
 1506 Human Relations, and the Unemployment Appeals Commission, upon
 1507 the certification of their respective commission heads, may, if
 1508 otherwise qualified, be provided for ~~under this paragraph~~ as
 1509 members of the Senior Management Service, ~~if otherwise~~
 1510 ~~qualified~~. However, the deputy general counsel of the Public
 1511 Employees Relations Commission shall be compensated in
 1512 accordance with the rules ~~as members~~ of the Selected Exempt

1513 Service.

1514 (k) Specialized managerial positions.-

1515 1. The department shall set the salary and benefits for
 1516 the following positions in accordance with the rules of the
 1517 Selected Exempt Service:

1518 a. Pursuant to s. 447.203(4), managerial employees who
 1519 perform jobs that are not of a routine, clerical, or ministerial
 1520 nature and require the exercise of independent judgment in the
 1521 performance of such jobs and to whom one or more of the
 1522 following applies: formulate or assist in formulating policies
 1523 applicable to bargaining unit employees; assist in the
 1524 preparation for the conduct of collective bargaining
 1525 negotiations; administer agreements resulting from collective
 1526 bargaining negotiations; have a significant role in personnel
 1527 administration; have a significant role in employee relations;
 1528 or have a significant role in the preparation or administration
 1529 of the final budget for any public agency or institution or
 1530 subdivision, including having the authority to select and
 1531 approve among alternative expenditures when necessary.

1532 b. Pursuant to s. 447.203(5), employees who act in a
 1533 confidential capacity to assist or aid managerial employees who
 1534 are performing work and who have access to information that
 1535 would provide an employee labor organization with an advantage
 1536 at the bargaining table or in the administration of collective
 1537 bargaining agreements.

1538 c. All supervisory employees, including supervisors,
 1539 administrators, and directors, who customarily and regularly
 1540 plan and direct the work of two or more full-time employees or

1541 the equivalent, and who communicate with, motivate, train, and
 1542 evaluate employees, and who have the authority to hire,
 1543 transfer, suspend, lay off, recall, promote, discharge, assign,
 1544 reward, or discipline subordinate employees or, effectively, to
 1545 recommend such action.

1546 2. The exemptions provided in this paragraph are not
 1547 applicable to the following:

1548 a. Managerial and supervisory employees who are designated
 1549 as special risk or special risk administrative support;

1550 b. Attorneys who serve as administrative law judges
 1551 pursuant to s. 120.65 or for hearings conducted pursuant to s.
 1552 120.57(1)(a); or

1553 c. Professional health care providers as defined in s.
 1554 110.1054, unless otherwise collectively bargained.

1555 (1) ~~(e)~~ Public Service Commission.—The executive director,
 1556 deputy executive director, general counsel, inspector general,
 1557 official reporters, and division directors within the Public
 1558 Service Commission and the personal secretary and personal
 1559 assistant to each member of the Public Service Commission.
 1560 Unless otherwise fixed by law, the salary and benefits of the
 1561 executive director, deputy executive directors, general counsel,
 1562 inspector general, and directors of all divisions and those
 1563 positions determined to have managerial responsibilities
 1564 comparable to such positions ~~Director of Administration,~~
 1565 ~~Director of Appeals, Director of Auditing and Financial~~
 1566 ~~Analysis, Director of Communications, Director of Consumer~~
 1567 ~~Affairs, Director of Electric and Gas, Director of Information~~
 1568 ~~Processing, Director of Legal Services, Director of Records and~~

1569 ~~Reporting, Director of Research, and Director of Water and Sewer~~
 1570 shall be set ~~by the department~~ in accordance with the rules of
 1571 the Senior Management Service. The salary and benefits of the
 1572 personal secretary and the personal assistant of each member of
 1573 the commission and the official reporters shall be set ~~by the~~
 1574 ~~department~~ in accordance with the rules of the Selected Exempt
 1575 Service, ~~notwithstanding any salary limitations imposed by law~~
 1576 ~~for the official reporters.~~

1577 (m)-(p) Department of Military Affairs.-

1578 1. All military personnel of the Department of Military
 1579 Affairs. Unless otherwise fixed by law, the salary and benefits
 1580 for ~~such~~ military personnel shall be set by the Department of
 1581 Military Affairs in accordance with the appropriate military pay
 1582 schedule.

1583 2. The salary and benefits of military police chiefs,
 1584 military police officers, firefighter trainers, firefighter-
 1585 rescuers, and electronic security system technicians shall be
 1586 ~~have salary and benefits~~ the same as civil career service
 1587 employees.

1588 ~~(q) The staff directors, assistant staff directors,~~
 1589 ~~district program managers, district program coordinators,~~
 1590 ~~district subdistrict administrators, district administrative~~
 1591 ~~services directors, district attorneys, and the Deputy Director~~
 1592 ~~of Central Operations Services of the Department of Children and~~
 1593 ~~Family Services. Unless otherwise fixed by law, the Department~~
 1594 ~~shall establish the pay band and benefits for these positions in~~
 1595 ~~accordance with the rules of the Selected Exempt Service.~~

1596 (n)-(r) Professional licensure.-All positions not otherwise

1597 exempt under this subsection which require as a prerequisite to
 1598 employment: licensure as a physician pursuant to chapter 458;~~;~~
 1599 licensure as an osteopathic physician pursuant to chapter 459;~~;~~
 1600 licensure as a chiropractic physician pursuant to chapter 460,
 1601 including those positions that ~~which~~ are occupied by employees
 1602 who are exempted from licensure pursuant to s. 409.352;
 1603 licensure as an engineer pursuant to chapter 471, which are
 1604 supervisory positions; or for 12 calendar months, which require
 1605 as a prerequisite to employment that the employee have received
 1606 the degree of Bachelor of Laws or Juris Doctor from a law school
 1607 accredited by the American Bar Association and thereafter
 1608 membership in The Florida Bar, except for any attorney who
 1609 serves as an administrative law judge pursuant to s. 120.65 or
 1610 for hearings conducted pursuant to s. 120.57(1)(a). Unless
 1611 otherwise fixed by law, the department shall set the salary and
 1612 benefits for these positions in accordance with the rules of
 1613 ~~established for~~ the Selected Exempt Service.

1614 (o) ~~(s)~~ Statewide prosecutor.—The statewide prosecutor in
 1615 charge of the Office of Statewide Prosecution of the Department
 1616 of Legal Affairs and all employees in the office. The Department
 1617 of Legal Affairs shall set the salary of these positions.

1618 (p) ~~(t)~~ Executive directors of regulatory boards and
 1619 commissions.—The executive director of each board or commission
 1620 established within the Department of Business and Professional
 1621 Regulation or the Department of Health. Unless otherwise fixed
 1622 by law, the Department of Management Services shall set
 1623 ~~establish~~ the salary and benefits for these positions in
 1624 accordance with the rules of ~~established for~~ the Selected Exempt

1625 Service.

1626 (q)(u) State Board of Administration.—All officers and
 1627 employees of the State Board of Administration. The State Board
 1628 of Administration shall set the salary ~~salaries~~ and benefits of
 1629 these positions.

1630 ~~(v) Positions that are leased pursuant to a state employee~~
 1631 ~~lease agreement expressly authorized by the Legislature pursuant~~
 1632 ~~to s. 110.191.~~

1633 ~~(w) Managerial employees, as defined in s. 447.203(4),~~
 1634 ~~confidential employees, as defined in s. 447.203(5), and~~
 1635 ~~supervisory employees who spend the majority of their time~~
 1636 ~~communicating with, motivating, training, and evaluating~~
 1637 ~~employees, and planning and directing employees' work, and who~~
 1638 ~~have the authority to hire, transfer, suspend, lay off, recall,~~
 1639 ~~promote, discharge, assign, reward, or discipline subordinate~~
 1640 ~~employees or effectively recommend such action, including all~~
 1641 ~~employees serving as supervisors, administrators, and directors.~~
 1642 ~~Excluded are employees also designated as special risk or~~
 1643 ~~special risk administrative support and attorneys who serve as~~
 1644 ~~administrative law judges pursuant to s. 120.65 or for hearings~~
 1645 ~~conducted pursuant to s. 120.57(1)(a). Additionally, registered~~
 1646 ~~nurses licensed under chapter 464, dentists licensed under~~
 1647 ~~chapter 466, psychologists licensed under chapter 490 or chapter~~
 1648 ~~491, nutritionists or dietitians licensed under part X of~~
 1649 ~~chapter 468, pharmacists licensed under chapter 465,~~
 1650 ~~psychological specialists licensed under chapter 491, physical~~
 1651 ~~therapists licensed under chapter 486, and speech therapists~~
 1652 ~~licensed under part I of chapter 468 are excluded, unless~~

1653 ~~otherwise collectively bargained.~~

1654 (r) ~~(*)~~ Justice Administration Commission and similar
 1655 entities.—All officers and employees of the Justice
 1656 Administrative Commission, Office of the State Attorney, Office
 1657 of the Public Defender, regional offices of capital collateral
 1658 counsel, offices of criminal conflict and civil regional
 1659 counsel, and Statewide Guardian Ad Litem Office, including the
 1660 circuit guardian ad litem programs and the Florida Clerks of
 1661 Court Operations Corporation.

1662 (s) Florida School for the Deaf and the Blind.—In
 1663 accordance with s. 1002.36, the salaries for academic personnel
 1664 and academic administrative personnel of the Florida School for
 1665 the Deaf and the Blind shall be set by the board of trustees for
 1666 the school, subject only to the approval of the State Board of
 1667 Education.

1668 (t) Miscellaneous positions.—

1669 1. The Chief Information Officer in the Agency for
 1670 Enterprise Information Technology. Unless otherwise fixed by
 1671 law, the agency shall set the salary and benefits of this
 1672 position in accordance with the rules of the Senior Management
 1673 Service.

1674 2. The chief inspector of the boiler inspection program of
 1675 the Department of Financial Services. The pay band of this
 1676 position shall be set by the Department of Management Services
 1677 in accordance with the classification and pay plan established
 1678 for the Selected Exempt Service.

1679 3. The personal assistant to the incumbent of each
 1680 position exempted in subparagraph 1., paragraph (a), or

1681 paragraph (g). Unless otherwise fixed by law, the department
 1682 shall set the salary and benefits of these positions in
 1683 accordance with the rules of the Selected Exempt Service.

1684 4. Positions that are leased pursuant to a state employee
 1685 lease agreement expressly authorized by the Legislature pursuant
 1686 to s. 112.922.

1687 5. Judges, referees, and receivers of the executive
 1688 branch.

1689 6. Positions held by patients or inmates in state
 1690 institutions.

1691 ~~(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—~~
 1692 ~~Employees of the Department of Law Enforcement shall be subject~~
 1693 ~~to the provisions of s. 110.227, except in matters relating to~~
 1694 ~~transfer.~~

1695 ~~(4) DEFINITION OF DEPARTMENT.—When used in this section,~~
 1696 ~~the term "department" shall mean all departments and commissions~~
 1697 ~~of the executive branch, whether created by the State~~
 1698 ~~Constitution or chapter 20; the office of the Governor; and the~~
 1699 ~~Public Service Commission; however, the term "department" shall~~
 1700 ~~mean the Department of Management Services when used in the~~
 1701 ~~context of the authority to establish pay bands and benefits.~~

1702 (3)(5) POSITIONS EXEMPTED BY OTHER STATUTES.—If any
 1703 position is exempted from the Civil career Service by any other
 1704 statute and the personnel system to which that position is
 1705 assigned is not specifically included in the statute, the
 1706 position shall be placed in the Selected Exempt Service, and the
 1707 department shall set ~~establish~~ the pay band and benefits for
 1708 that position in accordance with the rules of the Selected

1709 Exempt Service.

1710 (4) RULES.—The department may adopt rules necessary to
 1711 administer this section.

1712 ~~(6) EXEMPTION OF CHIEF INSPECTOR OF BOILER SAFETY PROGRAM,~~
 1713 ~~DEPARTMENT OF FINANCIAL SERVICES. In addition to those positions~~
 1714 ~~exempted from this part, there is hereby exempted from the~~
 1715 ~~Career Service System the chief inspector of the boiler~~
 1716 ~~inspection program of the Department of Financial Services. The~~
 1717 ~~pay band of this position shall be established by the Department~~
 1718 ~~of Management Services in accordance with the classification and~~
 1719 ~~pay plan established for the Selected Exempt Service.~~

1720 ~~(7) CARRYING LEAVE FORWARD. If an employee is transferred~~
 1721 ~~or otherwise moves from the Career Service System into the~~
 1722 ~~Selected Exempt Service, all of the employee's unused annual~~
 1723 ~~leave, unused sick leave, and unused compensatory leave shall~~
 1724 ~~carry forward with the employee.~~

1725 Section 25. Section 110.208, Florida Statutes, is created
 1726 to read:

1727 110.208 Classification system.—The department shall
 1728 establish and maintain a uniform classification system
 1729 applicable to all positions in the Civil Service and shall be
 1730 responsible for the overall coordination, review, and
 1731 maintenance of the system. A position may not be filled until it
 1732 has been classified in accordance with the system.

1733 (1) The system must include:

1734 (a) A position classification system using job families,
 1735 occupational groups, and a broadband level structure for each
 1736 occupation within an occupational group.

1737 (b) A pay plan that provides broad-based pay bands for
 1738 each occupational group.

1739 (2) In establishing and administering the system, the
 1740 department:

1741 (a) Shall develop occupation profiles necessary for the
 1742 establishment of new occupations or for the revision of existing
 1743 occupations and shall establish the appropriate occupation title
 1744 and broadband level code for each occupation. The occupation
 1745 profiles, titles, and codes are not rules as defined in s.
 1746 120.52.

1747 (b) Shall be responsible for conducting periodic studies
 1748 and surveys to ensure that the classification system is
 1749 maintained on a current basis.

1750 (c) May review in a postaudit capacity the action taken by
 1751 an agency in classifying or reclassifying a position.

1752 (d) Shall effect a classification change on any
 1753 classification or reclassification action taken by an agency if
 1754 the action taken by the agency was not based on the duties and
 1755 responsibilities officially assigned the position as they relate
 1756 to the concepts and description contained in the official
 1757 occupation profile and the level definition provided in the
 1758 occupational group characteristics adopted by the department.

1759 (e) Shall adopt rules necessary to administer the
 1760 classification system.

1761 (3) Each state agency is responsible for the day-to-day
 1762 application of the classification system established by the
 1763 department. The agency:

1764 (a) Shall maintain an up-to-date position description for

1765 each authorized and established position assigned to the agency.
 1766 The position description must include an accurate description of
 1767 assigned duties and responsibilities and other pertinent
 1768 information relating to a position and serves as a record of the
 1769 official assignment of duties to the position. The description
 1770 shall be used to compare positions in order to ensure the
 1771 uniformity of classifications.

1772 (b) May classify positions authorized by the Legislature
 1773 or pursuant to s. 216.262, classify positions that are added in
 1774 lieu of positions deleted pursuant to s. 216.262, and reclassify
 1775 established positions. Classification and reclassification
 1776 actions taken by an agency must be within the classification
 1777 system occupations established by the department, shall be
 1778 funded within the limits of currently authorized appropriations,
 1779 and must be in accordance with the uniform procedures
 1780 established by the department.

1781 Section 26. Section 110.2085, Florida Statutes, is created
 1782 to read:

1783 110.2085 Pay plan.—

1784 (1) The department shall establish and maintain an
 1785 equitable pay plan that applies to all positions in the Civil
 1786 Service and shall be responsible for the overall review,
 1787 coordination, and administration of the pay plan.

1788 (2) The department shall provide market-based pay bands
 1789 for occupational groups and establish guidelines for state
 1790 agencies to use when moving employees through such pay bands.

1791 (a) The agencies may determine the appropriate salary
 1792 within the pay bands using the guidelines developed by the

1793 department. Such pay bands, and the assignment of broadband
 1794 levels to positions, are not rules as defined in s. 120.52.

1795 (b) The department, in consultation with the Executive
 1796 Office of the Governor and the legislative appropriations
 1797 committees, shall conduct compensation surveys as necessary for
 1798 the purpose of achieving an equitable, competitive, market-based
 1799 pay policy.

1800 (3) The department shall establish rules for the
 1801 administration of pay additives and shall delegate to the state
 1802 agencies, where appropriate, the authority to implement pay
 1803 additives. The agency must use pay additives, as appropriate,
 1804 within the guidelines established by the department and
 1805 consistent with directions contained in the General
 1806 Appropriations Act.

1807 (a) The following pay additives are authorized:

- 1808 1. Shift differentials.
- 1809 2. On call.
- 1810 3. Hazardous duty.
- 1811 4. Lead-worker duty.
- 1812 5. Temporary special duties, general.
- 1813 6. Temporary special duties, absent coworker.
- 1814 7. Trainer duties.
- 1815 8. Competitive area differentials.
- 1816 9. Critical market pay.

1817 (b) Each state agency shall include in its annual
 1818 legislative budget request a proposed written plan for
 1819 implementing general temporary special duty pay additives during
 1820 the next fiscal year. Proposed revisions to an approved plan

1821 which become necessary during the fiscal year must be submitted
 1822 by the agency to the department for review and recommendation to
 1823 the Executive Office of the Governor. Such revisions may be
 1824 implemented only after approval by the Executive Office of the
 1825 Governor. A proposed revision is deemed to be action subject to
 1826 s. 216.177.

1827 (c) A new competitive area differential or a new critical
 1828 market pay additive may not be implemented unless the department
 1829 has reviewed and recommended such action and the Legislature has
 1830 provided express authority to implement such action. This
 1831 applies to an increase in the level of competitive area
 1832 differentials and critical market pay additives and to the
 1833 initial establishment and implementation of a competitive area
 1834 differential or critical market pay additive not in effect as of
 1835 January 1, 2012.

1836 (d) An agency may implement the pay additives set forth in
 1837 subparagraphs (a)1., 2., 3., 4., 6., and 7. as necessary to
 1838 accomplish the mission of the agency and in accordance with
 1839 department rules, instructions contained in the General
 1840 Appropriations Act, and applicable collective bargaining
 1841 agreements.

1842 (e) The department shall annually provide to the Executive
 1843 Office of the Governor and the Legislature a summary report of
 1844 the pay additives implemented pursuant to this section.

1845 (4) A state agency may implement salary increase and
 1846 decrease corrections due to administrative errors.

1847 (5) The department may adopt rules necessary to administer
 1848 this section.

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1849 Section 27. Section 110.211, Florida Statutes, is amended
 1850 to read:

1851 110.211 Recruitment.—

1852 (1) Recruiting shall be planned and carried out to ensure
 1853 ~~in a manner that assures~~ open competition based upon current and
 1854 projected ~~employing~~ agency needs, taking into consideration the
 1855 number and types of positions to be filled and the labor market
 1856 conditions, with special emphasis placed on recruiting efforts
 1857 that ~~to~~ attract minorities, women, or other groups ~~that are~~
 1858 underrepresented in the workforce of a state ~~the employing~~
 1859 agency.

1860 (2) Recruiting efforts to fill current or projected
 1861 vacancies shall be carried out in the sound discretion of the
 1862 agency head.

1863 (3) Recruiting ~~shall seek efficiency in advertising and~~
 1864 may be assisted by a contracted vendor ~~responsible for~~
 1865 ~~maintenance of the personnel data.~~

1866 (4) The department may adopt rules necessary to administer
 1867 this section. ~~All recruitment literature involving state~~
 1868 ~~position vacancies shall contain the phrase "An Equal~~
 1869 ~~Opportunity Employer/Affirmative Action Employer."~~

1870 Section 28. Section 110.213, Florida Statutes, is amended
 1871 to read:

1872 110.213 Selection.—

1873 (1) Selection for appointment from among the ~~most~~
 1874 qualified candidates is ~~shall be~~ the sole responsibility of the
 1875 state ~~employing~~ agency. ~~All new employees must successfully~~
 1876 ~~complete at least a 1-year probationary period before attainment~~

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1877 ~~of permanent status.~~

1878 (2) ~~Selection shall reflect efficiency and simplicity in~~
 1879 ~~hiring procedures.~~ The agency head or a ~~his or her~~ designee
 1880 shall ~~be required to~~ document the qualifications of the selected
 1881 candidate to ensure that the candidate meets the position
 1882 ~~minimum~~ requirements ~~as~~ specified by the ~~employing~~ agency;;
 1883 meets the licensure, certification, or registration
 1884 requirements, if any, ~~as~~ specified by statute;; and possesses
 1885 the requisite knowledge, skills, and abilities for the position.
 1886 No other documentation or justification is ~~shall be~~ required
 1887 before ~~prior to~~ selecting a candidate for a position.

1888 (3) The department may adopt rules necessary to administer
 1889 this section.

1890 Section 29. Section 110.2135, Florida Statutes, is amended
 1891 to read:

1892 110.2135 Veterans' preference ~~in employment, reemployment,~~
 1893 ~~promotion, and retention.-~~

1894 (1) Preference in employment, reemployment, promotion, and
 1895 retention shall be given to an eligible veteran pursuant to ss.
 1896 295.07, 295.08, 295.085, and 295.09 if ~~as long as~~ the veteran
 1897 meets the minimum eligibility requirements and has the
 1898 knowledge, skills, and abilities required for the particular
 1899 position.

1900 (2) A disabled veteran employed as the result of being
 1901 placed at the top of the appropriate employment list under ~~the~~
 1902 ~~provisions of~~ s. 295.08 or s. 295.085 shall be appointed for a
 1903 probationary period of 1 year. At the end of such period, if the
 1904 work of the veteran has been satisfactorily performed, the

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1905 | veteran will acquire merit ~~permanent employment~~ status in his or
 1906 | her position and ~~will~~ be subject to the employment rules of the
 1907 | department ~~of Management Services~~ and the agency employing the
 1908 | veteran ~~veteran's employing agency~~.

1909 | (3) The department may adopt rules necessary to administer
 1910 | this section.

1911 | Section 30. Section 110.215, Florida Statutes, is amended
 1912 | to read:

1913 | 110.215 Examinations and other employment qualification
 1914 | assessments administered to persons having disabilities.-

1915 | (1) The purpose of this section is to further the policy
 1916 | of the State Personnel System to encourage and assist persons
 1917 | having disabilities to achieve maximum personal and vocational
 1918 | independence through useful and productive gainful employment by
 1919 | eliminating unwarranted barriers to their qualifying
 1920 | competitively for civil ~~state career~~ service jobs.

1921 | (2) As used in this section, the term:

1922 | ~~(a) "Agency" includes each department and agency of the~~
 1923 | ~~state.~~

1924 | (a) ~~(b)~~ "Disability" means, with respect to an individual,
 1925 | a physical or mental impairment that substantially limits one or
 1926 | more of the major life activities of the individual, or a record
 1927 | of having such an impairment, or being regarded as having such
 1928 | an impairment.

1929 | (b) ~~(c)~~ "Examination" includes employment tests and other
 1930 | structured, systematic instruments used to assess the essential
 1931 | knowledge, skills, abilities, minimum qualifications, and other
 1932 | job-related requirements possessed by an applicant as a basis

1933 for any employment decision by an agency.

1934 (3) An applicant for employment within the Civil State
 1935 ~~Career Service System~~ who has a disability that impairs sensory,
 1936 speaking, or manual skills may require an agency to administer
 1937 an any examination to him or her in a format and manner that
 1938 does not require use of an impaired skill, unless the test is
 1939 designed to measure that skill. An applicant may request a
 1940 reasonable accommodation in a test format on the basis of a
 1941 disability.

1942 (4) The department may adopt rules necessary to administer
 1943 this section.

1944 Section 31. Section 110.217, Florida Statutes, is amended
 1945 to read:

1946 110.217 Appointment actions and status ~~Appointments and~~
 1947 ~~promotion.-~~

1948 (1) ~~(a)~~ The department, ~~in consultation with agencies that~~
 1949 ~~must comply with these rules,~~ shall develop uniform rules
 1950 regarding original appointment, promotion, demotion,
 1951 reassignment, lateral action, separation, and status which must
 1952 be used by state employing agencies. ~~Such rules must be approved~~
 1953 ~~by the Administration Commission before their adoption by the~~
 1954 ~~department.~~

1955 ~~(b)~~ ~~Employing agencies may seek exceptions to these~~
 1956 ~~uniform rules by filing a petition with the Administration~~
 1957 ~~Commission. The Administration Commission shall approve an~~
 1958 ~~exception when the exception is necessary to conform to any~~
 1959 ~~requirement imposed as a condition precedent to receipt of~~
 1960 ~~federal funds or to permit persons in this state to receive tax~~

1961 ~~benefits under federal law, or as required for the most~~
 1962 ~~efficient operation of the agency as determined by the~~
 1963 ~~Administration Commission. The reasons for the exception must be~~
 1964 ~~published in the Florida Administrative Weekly.~~

1965 ~~(c) Agency rules that provide exceptions to the uniform~~
 1966 ~~rules may not be filed with the Department of State unless the~~
 1967 ~~Administration Commission has approved the exceptions. Each~~
 1968 ~~agency that adopts rules that provide exceptions to the uniform~~
 1969 ~~rules or that must comply with statutory requirements that~~
 1970 ~~conflict with the uniform rules must have a separate chapter~~
 1971 ~~published in the Florida Administrative Code that delineates~~
 1972 ~~clearly the provisions of the agency's rules which provide~~
 1973 ~~exceptions or are based upon a conflicting statutory~~
 1974 ~~requirement. Each alternative chosen from those authorized by~~
 1975 ~~the uniform rules must be specified. Each chapter must be~~
 1976 ~~organized in the same manner as the uniform rules.~~

1977 (2) An employee appointed on probationary status shall
 1978 attain merit status in his or her current position upon
 1979 successful completion of at least a 1-year probationary period.
 1980 An employee who has not attained merit status in his or her
 1981 current position serves at the pleasure of the agency head and
 1982 may be dismissed at the discretion of the agency head.

1983 (3) If an employee who has received an internal agency
 1984 promotion from a position in which the employee held merit
 1985 status is to be dismissed from the promotional position for
 1986 failure to meet the established performance standards of the
 1987 promotional position while in probationary status, the agency,
 1988 before dismissal, shall attempt to return the employee to his or

1989 her former position, or to a position with the same duties and
 1990 responsibilities as the former position, if such a position is
 1991 vacant. Such determinations by an agency are not appealable and
 1992 this subsection does not apply to dismissals for any other
 1993 reason.

1994 ~~(2) Each employing agency shall have the responsibility~~
 1995 ~~for the establishment and maintenance of rules and guidelines~~
 1996 ~~for determining eligibility of applicants for appointment to~~
 1997 ~~positions in the career service.~~

1998 ~~(3) Eligibility shall be based on possession of required~~
 1999 ~~minimum qualifications for the job class and any required entry-~~
 2000 ~~level knowledge, skills, and abilities, and any certification~~
 2001 ~~and licensure required for a particular position.~~

2002 ~~(4) The employing agency shall be responsible for~~
 2003 ~~developing an employee career advancement program which shall~~
 2004 ~~assure consideration of qualified permanent employees in the~~
 2005 ~~agency or career service who apply. However, such program shall~~
 2006 ~~also include provisions to bring persons into the career service~~
 2007 ~~through open competition. Promotion appointments shall be~~
 2008 ~~subject to postaudit by the department.~~

2009 ~~(5) The department shall adopt any rules necessary to~~
 2010 ~~implement the provisions of this section. The rules must be~~
 2011 ~~approved by a majority vote of the Administration Commission~~
 2012 ~~prior to their adoption by the department.~~

2013 Section 32. Section 110.219, Florida Statutes, is amended
 2014 to read:

2015 110.219 Attendance and leave; general policies.—

2016 (1) The workday for each full-time state employee shall be

2017 8 hours or as otherwise authorized ~~justified~~ by the agency head.

2018 (2) Overtime may be required for any employee.

2019 (3) The granting of any leave of absence, with or without
 2020 pay, shall be in accordance with applicable state or federal
 2021 laws and the rules of the State Personnel System ~~writing and~~
 2022 ~~shall be approved by the agency head. Those employees who, at~~
 2023 the discretion of the agency, are ~~An employee who is granted a~~
 2024 leave of absence remain employees of the agency ~~with or without~~
 2025 ~~pay shall be an employee of the state while on such leave and~~
 2026 ~~shall be returned to the same~~ or comparable ~~position or a~~
 2027 ~~different position in the same class and same work location~~ upon
 2028 termination of the approved leave of absence in accordance with
 2029 the rules of the State Personnel System. ~~The agency head and the~~
 2030 ~~employee may agree in writing to other conditions and terms~~
 2031 ~~under which the leave is to be granted.~~

2032 ~~(4) Each agency shall keep an accurate record of all hours~~
 2033 ~~of work performed by each employee, as well as a complete and~~
 2034 ~~accurate record of all authorized leave which is approved. The~~
 2035 ~~ultimate responsibility for the accuracy and proper maintenance~~
 2036 ~~of all attendance and leave records shall be with the agency~~
 2037 ~~head.~~

2038 ~~(4)(5) Rules shall be adopted by~~ The department shall
 2039 adopt rules necessary to administer ~~in cooperation and~~
 2040 ~~consultation with the agencies to implement the provisions of~~
 2041 ~~this section; however, such rules must be approved by the~~
 2042 ~~Administration Commission prior to their adoption.~~ Such rules
 2043 must provide for, but need not be limited to:

2044 (a) The maximum responsibility and authority resting with

2045 | each agency head to administer attendance and leave matters in
 2046 | the agency within the parameters of the rules ~~adopted by the~~
 2047 | ~~department.~~

2048 | (b) ~~Creditable service in which 1 month of Service credit~~
 2049 | as it relates to the accrual and payment of leave is awarded for
 2050 | ~~each calendar month that the employee is on the payroll of a~~
 2051 | ~~state agency or during which the employee is on authorized leave~~
 2052 | ~~without pay.~~

2053 | (c) Holidays as provided in s. 112.929 ~~110.117.~~

2054 | (d) Overtime provisions.

2055 | (e) Annual leave provisions.

2056 | (f) Sick leave provisions.

2057 | (g) Parental leave provisions.

2058 | (h) Family medical leave provisions.

2059 | (i) Disability leave provisions.

2060 | (j) Compulsory disability leave provisions.

2061 | (k) Administrative leave provisions.

2062 | (l) Military leave provisions.

2063 | (m) Educational leave with pay provisions.

2064 | (n) Leave of absence without pay provisions.

2065 | ~~(6) The leave benefits provided to Senior Management~~
 2066 | ~~Service employees shall not exceed those provided to employees~~
 2067 | ~~in the Selected Exempt Service.~~

2068 | (5)(7) Subject to available funds, each December, a civil
 2069 | permanent career service employee who has merit status or who
 2070 | currently has probationary status due to a promotion that was
 2071 | preceded by the attainment of merit status is entitled ~~shall be~~
 2072 | ~~entitled, subject to available funds,~~ to a payout of up to 24

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2073 hours of unused annual leave if the ~~as follows:~~

2074 ~~(a) A permanent career service employee~~ has ~~must~~ have an
 2075 annual leave balance of at least ~~no less than~~ 24 hours, after
 2076 the payout, ~~in order to qualify for this benefit.~~

2077 ~~(b) A civil~~ No permanent career service employee may
 2078 not shall receive a payout of greater than 240 hours over the
 2079 course of the employee's career within ~~with~~ the Civil Service
 2080 ~~state~~, including any leave received at the time of separation.

2081 Section 33. Section 110.221, Florida Statutes, is amended
 2082 to read:

2083 110.221 Parental or family medical leave.-

2084 (1) As used in this section, the term:

2085 (a) "Family" means a child, parent, or spouse, ~~and the~~
 2086 ~~term~~

2087 (b) "Family medical leave" means leave requested by an
 2088 employee for a serious family illness including an accident,
 2089 disease, or condition that poses imminent danger of death,
 2090 requires hospitalization involving an organ transplant, limb
 2091 amputation, or other procedure of similar severity, or any
 2092 mental or physical condition that requires constant in-home
 2093 care. ~~The term~~

2094 (c) "Parental leave" means leave for the father or mother
 2095 of a child who is born to or adopted by that parent.

2096 (2) The state may ~~shall~~ not:

2097 (a) Terminate the employment of a civil service ~~any~~
 2098 employee ~~in the career service~~ because of the pregnancy of the
 2099 employee or the employee's spouse or the adoption of a child by
 2100 that employee.

2101 (b) Refuse to grant to a civil ~~career~~ service employee
 2102 parental or family medical leave without pay for a period not to
 2103 exceed 6 months. Such leave commences ~~shall commence~~ on a date
 2104 that is determined by the employee in consultation with the
 2105 attending physician following notification to the employer in
 2106 writing, and that is approved by the employer.

2107 (c) Deny a civil ~~career~~ service employee the use of and
 2108 payment for annual leave credits for parental or family medical
 2109 leave. Such leave commences ~~shall commence~~ on a date determined
 2110 by the employee in consultation with the attending physician
 2111 following notification to the employer in writing.

2112 (d) Deny a civil ~~career~~ service employee the use of and
 2113 payment for accrued sick leave or family sick leave for any
 2114 reason deemed necessary by a physician or as established by
 2115 policy.

2116 (e) Require that a civil ~~career~~ service employee take a
 2117 mandatory parental or family medical leave.

2118 (3) Upon returning at the end of parental or family
 2119 medical leave of absence, such employee shall be reinstated to
 2120 the same job or ~~to~~ an equivalent position that has with
 2121 equivalent pay and ~~with~~ seniority, retirement, fringe benefits,
 2122 and other service credits accumulated before ~~prior to~~ the leave
 2123 period. If any portion of the parental or family medical leave
 2124 is paid leave, the employee is ~~shall be~~ entitled to accumulate
 2125 all benefits granted under paid leave status.

2126 (4) The department may adopt rules necessary to administer
 2127 this section.

2128 Section 34. Section 110.224, Florida Statutes, is amended

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2129 to read:

2130 110.224 ~~Public~~ Employee performance evaluation system.—An
 2131 ~~A public~~ employee performance evaluation system shall be
 2132 established as a basis for evaluating and improving the
 2133 performance of the state's workforce, to inform employees of
 2134 strong and weak points in the employee's performance, to
 2135 identify training needs, and to award ~~lump-sum~~ bonuses and other
 2136 performance-based incentives in accordance with s. 110.1245 or
 2137 other provisions of law 110.1245(2).

2138 (1) Upon original appointment, promotion, demotion, or
 2139 reassignment, a job description of the assigned position
 2140 ~~assigned~~ must be made available to the civil ~~career~~ service
 2141 employee. The job description may be made available in an
 2142 electronic format.

2143 (2) Each employee shall ~~must~~ have a performance evaluation
 2144 conducted at least annually which involves both, ~~and the~~
 2145 ~~employee must receive~~ an oral and written assessment of his or
 2146 her performance ~~evaluation~~. The performance evaluation may
 2147 include a plan of action for improvement of the employee's
 2148 performance based on the work expectations or performance
 2149 standards applicable to the position as determined by the agency
 2150 head.

2151 (3) The department may adopt rules necessary to administer
 2152 this section ~~the public employee performance evaluation system~~
 2153 ~~which establish procedures for performance evaluation, review~~
 2154 ~~periods, and forms~~.

2155 Section 35. Section 110.227, Florida Statutes, is amended
 2156 to read:

2157 110.227 Suspensions, dismissals, reductions in pay,
 2158 demotions, layoffs, transfers, and grievances.—

2159 (1) An ~~Any~~ employee who has satisfactorily completed at
 2160 least a 1-year probationary period in his or her current
 2161 position may be suspended or dismissed only for cause. Cause
 2162 includes ~~shall include~~, but is not limited to, poor performance,
 2163 negligence, inefficiency or inability to perform assigned
 2164 duties, insubordination, violation of ~~the provisions of~~ law or
 2165 agency rules, conduct unbecoming a public employee, misconduct,
 2166 habitual drug abuse, or conviction of any crime. The agency head
 2167 shall ensure that all employees of the agency have reasonable
 2168 access to the agency's personnel policies and procedures ~~manual~~.

2169 (2) ~~(a)~~ The department shall establish rules and procedures
 2170 for the suspension, reduction in pay, transfer, layoff,
 2171 demotion, and dismissal of employees in the Civil ~~career~~
 2172 Service.

2173 (a) Except with regard to law enforcement or correctional
 2174 officers, firefighters, or professional health care providers,
 2175 rules regarding layoff procedures may ~~shall~~ not include any
 2176 provision ~~system~~ whereby a civil ~~career~~ service employee with
 2177 greater seniority has the option of selecting a different
 2178 position not being eliminated, but either vacant or already
 2179 occupied by an employee who has ~~of~~ less seniority, and taking
 2180 that position, commonly referred to as "bumping."

2181 (b) For the implementation of layoffs as defined in s.
 2182 110.1054 ~~110.107~~, the department shall develop rules requiring
 2183 retention of the agency's employees based upon objective
 2184 measures that give consideration to comparative merit,

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2185 demonstrated skills, the employee's experience, and the
 2186 employee's length of service in the Civil Service. ~~Such rules~~
 2187 ~~shall be approved by the Administration Commission before their~~
 2188 ~~adoption by the department.~~

2189 (3)~~(a)~~ With regard to law enforcement or correctional
 2190 officers, firefighters, or professional health care providers;7
 2191 ~~when~~

2192 (a) If a layoff becomes necessary, such layoff shall be
 2193 conducted within the competitive area identified by the agency
 2194 head and approved by the department ~~of Management Services~~. Such
 2195 competitive area shall be established taking into consideration
 2196 the similarity of work; the organizational unit, which may be by
 2197 agency, department, division, bureau, or other organizational
 2198 unit; and the commuting area for the affected work ~~affected~~.

2199 (b) ~~With regard to law enforcement or correctional~~
 2200 ~~officers, firefighters, or professional health care providers,~~
 2201 Layoff procedures shall be developed to establish the relative
 2202 merit and fitness of employees and must ~~shall~~ include a formula
 2203 for uniform application among all employees in the competitive
 2204 area, taking into consideration the type of appointment, the
 2205 length of service, and the evaluations of the employee's
 2206 performance within the last 5 years of employment.

2207 (4) A grievance process shall be available to civil career
 2208 service employees who have satisfactorily completed at least a
 2209 1-year probationary period in their current positions. A
 2210 grievance ~~is defined as the dissatisfaction that~~ occurs when an
 2211 employee believes that any condition affecting the employee is
 2212 unjust, inequitable, or a hindrance to the effective performance

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2213 of his or her job duties ~~operation~~. Claims of discrimination and
 2214 sexual harassment or claims related to suspensions, reductions
 2215 in pay, demotions, and dismissals are not subject to the civil
 2216 ~~career~~ service grievance process. The following procedures ~~shall~~
 2217 apply to any grievance filed pursuant to this subsection, except
 2218 that all timeframes may be extended in writing by mutual
 2219 agreement:

2220 (a) *Step One.*—The employee must ~~may~~ submit a signed,
 2221 written grievance on a form provided by the agency to his or her
 2222 supervisor within 14 calendar days following the occurrence of
 2223 the event giving rise to the grievance. The supervisor must meet
 2224 with the employee to discuss the grievance and provide a written
 2225 response to the employee within 7 business days following
 2226 receipt of the grievance.

2227 (b) *Step Two.*—If the employee is dissatisfied with the
 2228 response of his or her supervisor, the employee must ~~may~~ submit
 2229 the written grievance to the agency head or ~~his or her~~ designee
 2230 within 7 business days following receipt of the supervisor's
 2231 written response. The agency head's ~~head or his or her~~ designee
 2232 may ~~must~~ meet with the employee to discuss the grievance within
 2233 5 business days following receipt of the grievance. The agency
 2234 head or his or her designee must respond in writing to the
 2235 employee within 5 business days following receipt of the
 2236 grievance or the meeting. The written decision of the agency
 2237 head or designee is ~~shall be the final and binding authority~~ for
 2238 all grievances filed pursuant to this subsection. Such
 2239 grievances may not be appealed beyond Step Two.

2240 (5)~~(a)~~ A civil ~~career~~ service employee who has

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2241 satisfactorily completed at least a 1-year probationary period
 2242 and attained merit status in his or her current position and who
 2243 is subject to a suspension, reduction in pay, demotion,
 2244 involuntary transfer of more than 50 miles by highway, or
 2245 dismissal shall receive written notice of such action at least
 2246 10 calendar days before ~~prior to~~ the date such action is ~~to be~~
 2247 taken.

2248 (a) Subsequent to such notice, and before ~~prior to~~ the
 2249 date the action is ~~to be~~ taken, the affected employee shall be
 2250 given an opportunity to appear before a designated agency
 2251 official to rebut the agency or official taking the action to
 2252 ~~answer orally and in writing~~ the charges against him or her
 2253 orally or in writing. The notice ~~to the employee required by~~
 2254 ~~this paragraph~~ may be delivered to the employee personally or
 2255 may be sent by certified mail with return receipt requested.
 2256 Such actions are ~~shall be~~ appealable to the Public Employees
 2257 Relations Commission as provided in subsection (6). Written
 2258 notice of ~~any~~ such appeal shall be filed by the employee with
 2259 the commission within 21 calendar days after the date on which
 2260 the notice of suspension, reduction in pay, demotion,
 2261 involuntary transfer of more than 50 miles by highway, or
 2262 dismissal is received by the employee.

2263 (b) In extraordinary situations such as when the retention
 2264 of a civil ~~career~~ service employee who has satisfactorily
 2265 completed at least a 1-year probationary period in his or her
 2266 current position may ~~would~~ result in damage to state property,
 2267 may ~~would~~ be detrimental to the best interest of the state, or
 2268 may ~~would~~ result in harm ~~injury~~ to the employee, a fellow

2269 employee, or some other person, such employee may be suspended
 2270 or dismissed without 10 calendar days' prior notice ~~if, provided~~
 2271 ~~that~~ written or oral notice of such action, including evidence
 2272 ~~of~~ the reasons therefor, and an opportunity to rebut the charges
 2273 are furnished to the employee before ~~prior to~~ such dismissal or
 2274 suspension. Such notice may be delivered to the employee
 2275 personally or may be sent by certified mail with return receipt
 2276 requested. ~~Agency compliance with the foregoing procedure~~
 2277 ~~requiring notice, evidence, and an opportunity for rebuttal must~~
 2278 ~~be substantiated.~~ Any employee who is suspended or dismissed
 2279 pursuant to ~~the provisions of~~ this paragraph may appeal to the
 2280 Public Employees Relations Commission as provided in subsection
 2281 (6). Written notice of ~~any~~ such appeal shall be filed with the
 2282 commission by the employee within 21 calendar days after the
 2283 date on which the notice of suspension, ~~reduction in pay,~~
 2284 ~~demotion,~~ or dismissal is received by the employee.

2285 (c) Merit status that was attained in a previous position
 2286 does not give rise to appeal rights under this section.

2287 (6) The following procedures ~~shall~~ apply to appeals filed
 2288 pursuant to subsection (5) with the Public Employees Relations
 2289 Commission, ~~hereinafter referred to as the commission:~~

2290 (a) The commission must conduct a hearing within 60
 2291 calendar days following the filing of a notice of appeal. An ~~No~~
 2292 extension of time for the hearing may not exceed 30 calendar
 2293 days, absent exceptional circumstances, and ~~no extension of time~~
 2294 may not be granted without the consent of all parties. Discovery
 2295 may be granted only upon the showing of extraordinary
 2296 circumstances. A party requesting discovery must ~~shall~~

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2297 demonstrate a substantial need for the information requested and
 2298 an inability to obtain relevant information by other means.

2299 Except where inconsistent with the requirements of this
 2300 subsection, ~~the provisions of~~ s. 447.503(4) and (5) and chapter
 2301 120 apply to proceedings held pursuant to this subsection.

2302 (b) A person may represent himself or herself in
 2303 proceedings before the commission or may be represented by legal
 2304 counsel or by an ~~any~~ individual who qualifies as a
 2305 representative pursuant to rules adopted by the commission.

2306 (c) If the commission finds that cause did not exist for
 2307 the agency action, the commission shall reverse the decision of
 2308 the agency head and the employee shall be reinstated with or
 2309 without back pay. If the commission finds that cause existed for
 2310 the agency action, the commission shall affirm the decision of
 2311 the agency head. The commission may not reduce the penalty
 2312 imposed by the agency head, except in the case of law
 2313 enforcement or correctional officers, firefighters, and
 2314 professional health care providers, if the commission makes
 2315 specific written findings of mitigation.

2316 (d) A recommended order shall be issued by the hearing
 2317 officer within 30 days following the hearing. Exceptions to the
 2318 recommended order must ~~shall~~ be filed within 15 days after the
 2319 recommended order is issued. The final order shall be filed by
 2320 the commission within ~~no later than~~ 45 calendar days after the
 2321 hearing or after the filing of exceptions or oral arguments if
 2322 granted.

2323 (e) Final orders issued by the commission pursuant to
 2324 paragraph (d) are ~~shall be~~ reviewable as provided in s. 447.504.

2325 (7) Other than for law enforcement or correctional
 2326 officers, firefighters, and professional health care providers,
 2327 each suspension, dismissal, demotion, or reduction in pay must
 2328 be reviewed without consideration of any other case or set of
 2329 facts.

2330 (8) Employees of the Department of Law Enforcement are
 2331 subject to this section, except in matters relating to transfer.

2332 (9) The department may adopt rules necessary to administer
 2333 this section.

2334 ~~(8) A career service employee who is serving a~~
 2335 ~~probationary period in a position to which he or she has been~~
 2336 ~~promoted may be removed from that promotional position at any~~
 2337 ~~time during the probationary period but must be returned to his~~
 2338 ~~or her former position, or a comparable position, if such a~~
 2339 ~~position is vacant. If such a position is not available, before~~
 2340 ~~dismissal, the agency shall make a reasonable effort to retain~~
 2341 ~~the employee in another vacant position. This subsection does~~
 2342 ~~not apply to terminations for cause as described in subsection~~
 2343 ~~(1), nor does it create a right to "bump" an employee from an~~
 2344 ~~occupied position as described in paragraph (2) (a).~~

2345 Section 36. The Division of Statutory Revision is
 2346 requested to renumber part V of chapter 110, Florida Statutes,
 2347 as part III of that chapter, consisting of ss. 110.302-110.3023,
 2348 Florida Statutes, and to rename that part as "Selected Exempt
 2349 Service."

2350 Section 37. Section 110.601, Florida Statutes, is
 2351 transferred, renumbered as section 110.302, Florida Statutes,
 2352 and amended to read:

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2353 110.302 ~~110.601~~ Declaration of policy.—This part creates a
 2354 system of personnel administration for management the purpose of
 2355 delivering ~~which is to deliver~~ high-quality performance by
 2356 selected exempt service ~~these~~ employees in the State Personnel
 2357 System ~~select exempt classifications~~ by facilitating the state's
 2358 ability to attract and retain qualified personnel in these
 2359 positions, while also providing sufficient management
 2360 flexibility to ensure that the workforce is responsive to agency
 2361 needs. The Legislature recognizes that the public interest is
 2362 best served by developing and refining the technical and
 2363 managerial skills of these ~~its selected exempt service~~
 2364 employees, ~~and, to this end, technical training and management~~
 2365 ~~development programs are regarded as a major administrative~~
 2366 ~~function within agencies.~~

2367 Section 38. Section 110.602, Florida Statutes, is
 2368 transferred, renumbered as section 110.3021, Florida Statutes,
 2369 and amended to read:

2370 110.3021 ~~110.602~~ Selected Exempt Service; creation,
 2371 ~~coverage.~~

2372 (1) The Selected Exempt Service is created as a separate
 2373 system of personnel administration for ~~select exempt~~ positions
 2374 in the State Personnel System. ~~Such positions shall include, and~~
 2375 ~~shall be limited to, those positions~~ which are exempt from the
 2376 Civil Career Service System pursuant to s. 110.205(2) and (5)
 2377 and for which the salaries and benefits are set by the
 2378 department in accordance with the rules of the Selected Exempt
 2379 Service. ~~The department shall designate all positions included~~
 2380 ~~in the Selected Exempt Service as either~~

2381 ~~managerial/policymaking, professional, or~~
 2382 ~~nonmanagerial/nonpolicymaking.~~

2383 (2) Employees in the Selected Exempt Service shall serve
 2384 at the pleasure of the agency head and are subject to personnel
 2385 actions at the discretion of the agency head. Personnel actions
 2386 that are tantamount to suspension, dismissal, reduction in pay,
 2387 demotion, or transfer are exempt from chapter 120.

2388 Section 39. Section 110.605, Florida Statutes, is
 2389 transferred, renumbered as section 110.3022, Florida Statutes,
 2390 and amended to read:

2391 110.3022 ~~110.605~~ Powers and duties, personnel rules,
 2392 ~~records, reports, and performance appraisal.~~ The department is
 2393 responsible for the policy administration of the Selected Exempt
 2394 Service. In carrying out that function, the department shall:

2395 (1) Provide broad, market-based pay bands for occupations
 2396 within the Selected Exempt Service and establish guidelines that
 2397 allow state agencies flexibility to move employees through the
 2398 pay bands. The agencies may determine the appropriate salary
 2399 within the bands using the guidelines adopted by the department.
 2400 The pay bands, and the assignment of bands to positions, do not
 2401 constitute rules as defined in s. 120.52.

2402 (2) Establish a classification system and a salary and
 2403 benefit plan for the Selected Exempt Service which provide for
 2404 greater pay and benefits overall than are provided for the Civil
 2405 Service and less pay and benefits overall than are provided for
 2406 the Senior Management Service.

2407 (3) In consultation with the Executive Office of the
 2408 Governor and the appropriations committees of the Legislature,

2409 conduct compensation surveys as necessary for achieving an
 2410 equitable, competitive, market-based compensation policy for
 2411 selected exempt service employees.

2412 (4) Establish a performance evaluation system for selected
 2413 exempt service employees which takes into consideration
 2414 individual and organizational efficiency, productivity, and
 2415 effectiveness.

2416 (5) Establish a system for documenting department actions
 2417 taken on agency requests for the approval of position exemptions
 2418 and pay increases for selected exempt service employees.

2419 (6) (1) ~~The department shall~~ Adopt and administer uniform
 2420 personnel rules, records, and reports relating to employees and
 2421 positions in the Selected Exempt Service, as well as any other
 2422 rules and procedures relating to personnel administration which
 2423 are necessary to carry out the purposes of this part.

2424 (a) The rules adopted by the department must comply with
 2425 all federal regulations necessary to permit the agencies to
 2426 receive federal funds.

2427 (b) Each agency shall operate within the uniform personnel
 2428 rules adopted by the department pursuant to this part.

2429 (c) Each agency shall maintain up-to-date records and
 2430 reports required by applicable rules.

2431 (d) (a) ~~The department may shall~~ develop uniform forms and
 2432 instructions to be used for personnel in reporting transactions
 2433 which ~~involve changes in an employee's salary, status,~~
 2434 ~~performance, leave, fingerprint record, loyalty oath, payroll~~
 2435 ~~change, or appointment action or any additional transactions~~ as
 2436 the department deems ~~may deem~~ appropriate.

2437 ~~(b) The department shall develop a uniform performance~~
 2438 ~~appraisal system for employees and positions in the Selected~~
 2439 ~~Exempt Service covered by a collective bargaining agreement.~~
 2440 ~~Each employing agency shall develop a performance appraisal~~
 2441 ~~system for all other employees and positions in the Selected~~
 2442 ~~Exempt System. Such agency system shall take into consideration~~
 2443 ~~individual and organizational efficiency, productivity, and~~
 2444 ~~effectiveness.~~

2445 ~~(c) The employing agency must maintain, on a current~~
 2446 ~~basis, all records and reports required by applicable rules. The~~
 2447 ~~department shall periodically audit employing agency records to~~
 2448 ~~determine compliance with the provisions of this part and the~~
 2449 ~~rules of the department.~~

2450 ~~(d) The department shall develop a program of affirmative~~
 2451 ~~and positive actions that will ensure full utilization of women~~
 2452 ~~and minorities in Selected Exempt Service positions.~~

2453 ~~(2) Each employing agency shall operate within the uniform~~
 2454 ~~personnel rules adopted by the department pursuant to the~~
 2455 ~~provisions of this part. Each employing agency may adopt rules~~
 2456 ~~as necessary to implement the provisions of this part, but such~~
 2457 ~~rules shall not prescribe any personnel policies inconsistent~~
 2458 ~~with the provisions of this part or the rules of the department.~~

2459 ~~(3) The rules adopted by the department and each employing~~
 2460 ~~agency under this part shall comply with all federal regulations~~
 2461 ~~necessary to permit the state agencies to be eligible to receive~~
 2462 ~~federal funds.~~

2463 ~~(4) The department shall adopt by rule procedures for~~
 2464 ~~Selected Exempt Service employees that require disclosure to the~~

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2465 ~~agency head of any application for or offer of employment, gift,~~
 2466 ~~contractual relationship, or financial interest with any~~
 2467 ~~individual, partnership, association, corporation, utility, or~~
 2468 ~~other organization, whether public or private, doing business~~
 2469 ~~with or subject to regulation by the agency.~~

2470 ~~(5) The secretary may periodically hire a consultant with~~
 2471 ~~expertise in personnel management to advise him or her with~~
 2472 ~~respect to the administration of the Selected Exempt Service.~~

2473 Section 40. Section 110.3023, Florida Statutes, is created
 2474 to read:

2475 110.3023 Recruitment.-

2476 (1) Each state agency is responsible for establishing a
 2477 process for employing, advancing, and deploying selected exempt
 2478 service staff to meet agency needs.

2479 (2) If normal recruitment efforts of the agency through
 2480 the use of the department's designated human resource
 2481 information system, trade journals, or magazines are
 2482 unsuccessful, the agency may contract with a person or firm to
 2483 conduct a multistate search for hard-to-fill professional
 2484 positions. The contracted search person or firm must satisfy the
 2485 following criteria:

2486 (a) Willingness to accept contingency contracts with fees
 2487 of up to 30 percent of the annual salary of the applicant, to be
 2488 paid upon employment of an applicant produced by the search.

2489 (b) Demonstrated capacity to perform effectively at
 2490 competitive industry prices.

2491 (c) Evidence of successful placements in the public sector
 2492 by level and type of placement.

2493 (d) Agreement for the delivery of services within 90
 2494 calendar days after the date of the requested search by the
 2495 agency, unless an extension is granted by the agency.

2496 (e) Ability to attract minorities and women as evidenced
 2497 by applicant pools generated for previous clients.

2498 Section 41. The Division of Statutory Revision is
 2499 requested to renumber part III of chapter 110, Florida Statutes,
 2500 as part IV of that chapter, consisting of ss. 110.401-110.4035,
 2501 Florida Statutes, and to rename that part as "Senior Management
 2502 Service."

2503 Section 42. Section 110.401, Florida Statutes, is amended
 2504 to read:

2505 110.401 Declaration of policy.—This part creates a ~~uniform~~
 2506 system of personnel administration for attracting, retaining,
 2507 and developing highly competent, executive-level ~~senior-level~~
 2508 managers within the State Personnel System ~~at the highest~~
 2509 ~~executive management level agency positions in order for the~~
 2510 ~~highly complex programs and agencies of state government to~~
 2511 ~~function effectively, efficiently, and productively.~~ The
 2512 Legislature recognizes that executive-level ~~senior-level~~
 2513 management is an established profession and that the public
 2514 interest is best served by developing and refining the
 2515 management skills of its senior management service employees.
 2516 ~~Accordingly, training and management development programs are~~
 2517 ~~regarded as a major administrative function within agencies.~~

2518 Section 43. Section 110.402, Florida Statutes, is amended
 2519 to read:

2520 110.402 Senior Management Service; creation, ~~coverage.~~—

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2521 (1) The Senior Management Service is created as a separate
 2522 system of personnel administration for positions in the State
 2523 Personnel System which perform ~~executive branch~~ the duties and
 2524 responsibilities that ~~of which~~ are primarily and essentially
 2525 policymaking or managerial in nature.

2526 ~~(2) Such positions are~~ The Senior Management Service shall
 2527 ~~be~~ limited to those positions that ~~which~~ are exempt from the
 2528 Civil Career Service under System ~~by s. 110.205(2)~~ and for which
 2529 the salaries and benefits are set by the department in
 2530 accordance with the rules of the Senior Management Service.

2531 (2) Employees in the Senior Management Service shall serve
 2532 at the pleasure of the agency head and are subject to personnel
 2533 actions at the discretion of the agency head. Personnel actions
 2534 that are tantamount to suspension, dismissal, reduction in pay,
 2535 demotion, or transfer are exempt from chapter 120.

2536 Section 44. Section 110.403, Florida Statutes, is amended
 2537 to read:

2538 110.403 Powers and duties of the department.—The
 2539 department is responsible for the policy administration of the
 2540 Senior Management Service. In carrying out that function, the
 2541 department shall:

2542 ~~(1) In order to implement the purposes of this part, the~~
 2543 ~~Department of Management Services, after approval by the~~
 2544 ~~Administration Commission, shall adopt and amend rules providing~~
 2545 ~~for:~~

2546 ~~(1)(a)~~ Establish a system for employing, advancing, and
 2547 deploying senior management service employees which promoting,
 2548 ~~or reassigning managers that~~ is responsive to organizational or

2549 program needs. ~~In no event shall~~ The number of positions
 2550 included in the Senior Management Service may not exceed 1.0
 2551 percent of the total full-time equivalent positions in the Civil
 2552 ~~career~~ Service. The department may not approve the establishment
 2553 of ~~shall deny approval to establish~~ any position within the
 2554 Senior Management Service which exceeds ~~would exceed~~ the
 2555 limitation established in this subsection ~~paragraph~~. The
 2556 department shall report that the limitation has been reached to
 2557 the Governor, the President of the Senate, and the Speaker of
 2558 the House of Representatives, as soon as practicable after it
 2559 ~~such event~~ occurs. ~~Employees in the Senior Management Service~~
 2560 ~~shall serve at the pleasure of the agency head and shall be~~
 2561 ~~subject to suspension, dismissal, reduction in pay, demotion,~~
 2562 ~~transfer, or other personnel action at the discretion of the~~
 2563 ~~agency head. Such personnel actions are exempt from the~~
 2564 ~~provisions of chapter 120.~~

2565 (2) Provide broad, market-based pay bands for occupations
 2566 within the Senior Management Service and establish guidelines
 2567 that allow state agencies flexibility to move employees through
 2568 the pay bands. The agencies may determine the appropriate salary
 2569 within the bands using the guidelines established by the
 2570 department. Such pay bands and the assignment of bands to
 2571 positions do not constitute rules as defined in s. 120.52.

2572 ~~(b) A performance appraisal system which shall take into~~
 2573 ~~consideration individual and organizational efficiency,~~
 2574 ~~productivity, and effectiveness.~~

2575 (3)(e) Establish a classification system plan and a salary
 2576 and benefit plan for senior management service employees which

2577 provide ~~that provides~~ appropriate incentives for the recruitment
 2578 and retention of outstanding management personnel and provide
 2579 ~~provides~~ for salary increases based on performance.

2580 (4) In consultation with the Executive Office of the
 2581 Governor and the appropriations committees of the Legislature,
 2582 conduct compensation surveys as necessary for the purpose of
 2583 achieving an equitable, competitive, market-based compensation
 2584 policy for senior management service employees.

2585 (5) Establish a performance evaluation system for senior
 2586 management service employees which takes into consideration
 2587 individual and organizational efficiency, productivity, and
 2588 effectiveness.

2589 ~~(d) A system of rating duties and responsibilities for~~
 2590 ~~positions within the Senior Management Service and the~~
 2591 ~~qualifications of candidates for those positions.~~

2592 (6)(e) Establish a system for documenting actions taken on
 2593 agency requests for approval of position exemptions and special
 2594 pay increases for senior management service employees.

2595 (7) Adopt and administer personnel rules, records, and
 2596 reports relating to employees and positions in the Senior
 2597 Management Service, as well as any other rules or procedures
 2598 relating to personnel administration which are necessary for
 2599 carrying out the purposes of this part.

2600 (a) The rules adopted by the department must comply with
 2601 all federal regulations necessary for state agencies to receive
 2602 federal funds.

2603 (b) Each agency shall operate within the personnel rules
 2604 adopted by the department pursuant to this part.

2605 (c) Each agency shall maintain up-to-date records and
 2606 reports required by applicable rules.

2607 (d) The department may develop uniform forms and
 2608 instructions to be used in connection with personnel
 2609 transactions as the department deems appropriate.

2610 ~~(f) Requirements regarding recordkeeping by agencies with~~
 2611 ~~respect to Senior Management Service positions. Such records~~
 2612 ~~shall be audited periodically by the Department of Management~~
 2613 ~~Services to determine agency compliance with the provisions of~~
 2614 ~~this part and the rules of the Department of Management~~
 2615 ~~Services.~~

2616 ~~(g) Other procedures relating to personnel administration~~
 2617 ~~to carry out the purposes of this part.~~

2618 ~~(h) A program of affirmative and positive action that will~~
 2619 ~~ensure full utilization of women and minorities in Senior~~
 2620 ~~Management Service positions.~~

2621 ~~(2) The powers, duties, and functions of the department of~~
 2622 ~~Management Services shall include responsibility for the policy~~
 2623 ~~administration of the Senior Management Service.~~

2624 ~~(3) The department shall have the following additional~~
 2625 ~~responsibilities:~~

2626 ~~(a) To establish and administer a professional development~~
 2627 ~~program that shall provide for the systematic development of~~
 2628 ~~managerial, executive, or administrative skills. Such a program~~
 2629 ~~shall include the following topics:~~

2630 ~~1. Improving the performance of individual employees. This~~
 2631 ~~topic provides skills in understanding and motivating individual~~
 2632 ~~performance, providing effective and timely evaluations of~~

2633 ~~employees, and making recommendations on performance incentives~~
 2634 ~~and disincentives.~~

2635 ~~2. Improving the performance of groups of employees. This~~
 2636 ~~topic provides skills in creating and maintaining productive~~
 2637 ~~workgroups and making recommendations on performance incentives~~
 2638 ~~and disincentives.~~

2639 ~~3. Relating the efforts of employees to the goals of the~~
 2640 ~~organization. This topic provides skills in linking the work of~~
 2641 ~~individual employees to the goals of the agency program,~~
 2642 ~~service, or activity.~~

2643 ~~4. Strategic planning. This topic provides the skills for~~
 2644 ~~defining agency business processes, measuring performance of~~
 2645 ~~such processes, and reengineering such processes for improved~~
 2646 ~~efficiency and effectiveness.~~

2647 ~~5. Team leadership. This topic provides skills in~~
 2648 ~~effective group processes for organizational motivation and~~
 2649 ~~productivity based on proven business and military applications~~
 2650 ~~that emphasize respect for and courtesy to the public.~~

2651 ~~(b) To promote public understanding of the purposes,~~
 2652 ~~policies, and programs of the Senior Management Service.~~

2653 ~~(c) To approve contracts of employing agencies with~~
 2654 ~~persons engaged in the business of conducting multistate~~
 2655 ~~executive searches to identify qualified and available~~
 2656 ~~applicants for Senior Management Service positions for, which the~~
 2657 ~~department sets salaries in accordance with the classification~~
 2658 ~~and pay plan. Such contracts may be entered by the agency head~~
 2659 ~~only after completion of an unsuccessful in-house search. The~~
 2660 ~~department shall establish, by rule, the minimum qualifications~~

2661 ~~for persons desiring to conduct executive searches, including a~~
 2662 ~~requirement for the use of contingency contracts. These rules~~
 2663 ~~shall ensure that such persons possess the requisite capacities~~
 2664 ~~to perform effectively at competitive industry prices. These~~
 2665 ~~rules shall also comply with state and federal laws and~~
 2666 ~~regulations governing equal opportunity employment.~~

2667 ~~(4) All policies and procedures adopted by the department~~
 2668 ~~regarding the Senior Management Service shall comply with all~~
 2669 ~~federal regulations necessary to permit the state agencies to be~~
 2670 ~~eligible to receive federal funds.~~

2671 ~~(5) The department shall adopt, by rule, procedures for~~
 2672 ~~Senior Management Service employees that require disclosure to~~
 2673 ~~the agency head of any application for or offer of employment,~~
 2674 ~~gift, contractual relationship, or financial interest with any~~
 2675 ~~individual, partnership, association, corporation, utility, or~~
 2676 ~~other organization, whether public or private, doing business~~
 2677 ~~with or subject to regulation by the agency.~~

2678 Section 45. Section 110.4035, Florida Statutes, is created
 2679 to read:

2680 110.4035 Recruitment.-

2681 (1) Each state agency is responsible for establishing a
 2682 process for employing, advancing, and deploying executive-level
 2683 managers to meet agency needs.

2684 (2) If normal recruitment efforts are unsuccessful, the
 2685 agency may contract with a person or firm to conduct a
 2686 multistate search for executive-level managers. The contracted
 2687 search person or firm must satisfy the following criteria:

2688 (a) Willingness to accept contingency contracts with fees

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2689 that do not exceed 30 percent of the annual salary of the
 2690 applicant, to be paid upon employment of the applicant produced
 2691 by the search.

2692 (b) Demonstrated capacity to perform effectively at
 2693 competitive industry prices.

2694 (c) Evidence of successful placements in the public sector
 2695 by level and type of placement.

2696 (d) Agreement for the delivery of services within 90
 2697 calendar days after the date of the requested search by the
 2698 agency, unless an extension is granted by the agency.

2699 (e) Ability to attract minorities and women as evidenced
 2700 by applicant pools generated for previous clients.

2701 Section 46. The Division of Statutory Revision is
 2702 requested to create part IX of chapter 112, Florida Statutes,
 2703 consisting of ss. 112.906-112.933, Florida Statutes, to be
 2704 entitled "State Employment."

2705 Section 47. Section 112.906, Florida Statutes, is created
 2706 to read:

2707 112.906 Definitions.—As used in this part, the term:

2708 (1) "Department" means the Department of Management
 2709 Services.

2710 (2) "Other personal services" has the same meaning as in
 2711 s. 216.011(1).

2712 (3) "State agency" or "agency" means any official,
 2713 officer, commission, board, authority, council, committee, or
 2714 department of the executive branch or judicial branch of state
 2715 government as defined in chapter 216, unless otherwise exempted
 2716 by law.

2717 (4) "State employee" or "employee" means an employee of a
 2718 state agency.

2719 Section 48. Section 110.131, Florida Statutes, is
 2720 transferred, renumbered as section 112.907, Florida Statutes,
 2721 and amended to read:

2722 112.907 ~~110.131~~ Other-personal-services ~~temporary~~
 2723 employment.-

2724 ~~(1) As used in this section, the term "agency" means any~~
 2725 ~~official, officer, commission, board, authority, council,~~
 2726 ~~committee, or department of the executive branch of state~~
 2727 ~~government and means any officer, court, commission, or other~~
 2728 ~~unit of the judicial branch of state government supported in~~
 2729 ~~whole or in part by appropriations made by the Legislature.~~

2730 (1)(2) An agency may employ any qualified individual in
 2731 other-personal-services ~~temporary~~ employment ~~for 1,040 hours~~
 2732 ~~within any 12-month period.~~ For each other-personal-services
 2733 employee, the agency shall:

2734 (a) Maintain employee records identifying, at a minimum,
 2735 the person employed, the hire date, the type of other-personal-
 2736 services employment, and the number of hours worked.

2737 (b) Determine the appropriate rate of pay and ensure that
 2738 all payments are in compliance with the federal Fair Labor
 2739 Standards Act and state law.

2740 (c) Review, determine, and document by June 30 of each
 2741 year whether the continuation of each other-personal-services
 2742 employment position is necessary to the mission of the agency.
 2743 This review process ~~An extension beyond a total of 1,040 hours~~
 2744 ~~within an agency for any individual requires a recommendation by~~

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2745 ~~the agency head and approval by the Executive Office of the~~
 2746 ~~Governor. Approval of extensions shall be made in accordance~~
 2747 ~~with criteria established by the department. Each agency shall~~
 2748 ~~maintain employee information as specified by the department~~
 2749 ~~regarding each extension of other personal services temporary~~
 2750 ~~employment. The time limitation established by this subsection~~
 2751 does not apply to board members; consultants; seasonal
 2752 employees; institutional clients employed as part of their
 2753 rehabilitation; bona fide, degree-seeking students in accredited
 2754 secondary or postsecondary educational programs; employees hired
 2755 to deal with an emergency situation that affects the public
 2756 health, safety, or welfare; or employees hired for a project
 2757 that is identified by a specific appropriation or time-limited
 2758 grant.

2759 (2) Unless specifically provided by law, other-personal-
 2760 services employees are not eligible for any form of paid leave,
 2761 paid holidays, a paid personal day, participation in state group
 2762 insurance or retirement benefits, or any other state employee
 2763 benefit. Other-personal-services employees may be included in
 2764 that part of an agency's recognition and reward program that
 2765 recognizes and rewards employees who submit innovative ideas
 2766 that increase productivity, eliminate or reduce state
 2767 expenditures, improve operations, or generate additional revenue
 2768 or who meet or exceed the agency's established criteria for a
 2769 project or goal.

2770 (3) Each agency that is authorized to adopt rules
 2771 governing the terms and conditions of employment may adopt rules
 2772 necessary to administer this section. ~~The department shall adopt~~

2773 ~~rules providing that other personal services temporary~~
 2774 ~~employment in an employer-employee relationship shall be used~~
 2775 ~~for short-term tasks. Such rules shall specify the employment~~
 2776 ~~categories, terms, conditions, rate of pay, and frequency of~~
 2777 ~~other personal services temporary employment and the duration~~
 2778 ~~for which such employment may last; specify criteria for~~
 2779 ~~approving extensions beyond the time limitation provided in~~
 2780 ~~subsection (2); and prescribe recordkeeping and reporting~~
 2781 ~~requirements for other personal services employment.~~

2782 ~~(4) The department shall prepare written material~~
 2783 ~~explaining the terms and conditions of other personal services~~
 2784 ~~employment and shall provide master copies to each agency. Each~~
 2785 ~~agency shall provide each of its applicants for such employment~~
 2786 ~~with a copy thereof at the time of application and shall discuss~~
 2787 ~~the information contained thereon with each applicant at the~~
 2788 ~~time of interview or employment commencement, whichever occurs~~
 2789 ~~sooner.~~

2790 ~~(5) The department shall maintain information relating to~~
 2791 ~~other personal services employment for each agency. Such~~
 2792 ~~information shall include:~~

2793 ~~(a) The total amount of compensation for other personal~~
 2794 ~~services personnel, by employment category, for the preceding~~
 2795 ~~fiscal year.~~

2796 ~~(b) The name, social security number, employment category,~~
 2797 ~~employment commencement date, and number of hours worked for~~
 2798 ~~each individual whose initial other personal services temporary~~
 2799 ~~employment began before the start of the preceding fiscal year~~
 2800 ~~and who was still employed as an other personal services~~

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2801 ~~temporary employee at the end of the preceding fiscal year.~~

2802 ~~(6)(a) The provisions of subsections (2), (3), and (4) do~~
 2803 ~~not apply to any employee for whom the Board of Governors of the~~
 2804 ~~State University System, or the board's designee, or the Board~~
 2805 ~~of Trustees of the Florida School for the Deaf and the Blind is~~
 2806 ~~the employer as defined in s. 447.203(2); except that, for~~
 2807 ~~purposes of subsection (5), the Board of Trustees of the Florida~~
 2808 ~~School for the Deaf and the Blind shall comply with the~~
 2809 ~~recordkeeping and reporting requirements adopted by the~~
 2810 ~~department pursuant to subsection (3) with respect to those~~
 2811 ~~other personal-services employees exempted by this subsection.~~

2812 ~~(b) The provisions of subsections (2), (3), and (4) do not~~
 2813 ~~apply to any employee of the Division of Blind Services Library~~
 2814 ~~for the Blind and Physically Handicapped for whom the Division~~
 2815 ~~of Blind Services is the employer as defined in s. 447.203(2);~~
 2816 ~~except that, for purposes of subsection (5), the Division of~~
 2817 ~~Blind Services shall comply with the recordkeeping and reporting~~
 2818 ~~requirements adopted by the department pursuant to subsection~~
 2819 ~~(3) with respect to those other personal-services employees~~
 2820 ~~exempted by this subsection.~~

2821 ~~(c) Notwithstanding the provisions of this section, the~~
 2822 ~~agency head or his or her designee may extend the other-~~
 2823 ~~personal-services employment of a health care practitioner~~
 2824 ~~licensed pursuant to chapter 458, chapter 459, chapter 460,~~
 2825 ~~chapter 461, chapter 463, part I of chapter 464, chapter 466,~~
 2826 ~~chapter 468, chapter 483, chapter 486, or chapter 490 beyond~~
 2827 ~~2,080 hours and may employ such practitioner on an hourly or~~
 2828 ~~other basis.~~

2829 ~~(7) The Department of Management Services shall annually~~
 2830 ~~assess agencies for the regulation of other personal services on~~
 2831 ~~a pro rata share basis not to exceed an amount as provided in~~
 2832 ~~the General Appropriations Act.~~

2833 Section 49. Section 110.1315, Florida Statutes, is
 2834 transferred, renumbered as section 112.908, Florida Statutes,
 2835 and amended to read:

2836 112.908 ~~110.1315~~ Alternative retirement benefits; other-
 2837 personal-services employees.-

2838 (1) Upon review and ~~recommendation of the department and~~
 2839 approval of the Executive Office of the Governor, the Department
 2840 of Financial Services shall provide ~~may contract for the~~
 2841 ~~implementation of~~ an alternative retirement income security
 2842 program for eligible temporary and seasonal employees of the
 2843 state who are compensated from appropriations for other personal
 2844 services. The Department of Financial Services may contract with
 2845 ~~may provide for~~ a private vendor or vendors to administer the
 2846 program under a defined-contribution plan under ss. 401(a) and
 2847 403(b) or s. 457 of the Internal Revenue Code, and the program
 2848 must provide retirement benefits as required under s.
 2849 3121(b)(7)(F) of the Internal Revenue Code. The Department of
 2850 Financial Services may develop a request for proposals and
 2851 solicit qualified vendors to compete for the award of the
 2852 contract. A vendor shall be selected on the basis of the plan
 2853 that best serves the interest of the participating employees and
 2854 the state. The proposal must comply with all necessary federal
 2855 and state laws and rules.

2856 (2) The Department of Financial Services may adopt rules

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2857 necessary to administer this section.

2858 Section 50. Section 110.1128, Florida Statutes, is
 2859 transferred and renumbered as section 112.909, Florida Statutes.

2860 Section 51. Section 112.910, Florida Statutes, is created
 2861 to read:

2862 112.910 Equal employment opportunity.-

2863 (1) It is the policy of this state to assist in ensuring
 2864 equal employment opportunity through programs of affirmative and
 2865 positive action which allow full utilization of women and
 2866 minorities.

2867 (2) The head of each executive agency shall develop and
 2868 implement an affirmative action plan in accordance with this
 2869 section and applicable state and federal laws.

2870 (a) Each executive agency shall establish annual goals for
 2871 ensuring the full utilization of groups underrepresented in its
 2872 workforce as compared to the relevant labor market as defined by
 2873 the agency and shall design its affirmative action plan to meet
 2874 those goals.

2875 (b) The head of each executive agency shall appoint an
 2876 equal employment opportunity officer.

2877 (c) By October 1 of each year, each executive agency that
 2878 is not part of the State Personnel System shall report to the
 2879 Executive Office of the Governor information relating to the
 2880 implementation, continuance, updating, and results of the
 2881 agency's affirmative action plan for the previous fiscal year.

2882 (3) Each state attorney and public defender shall:

2883 (a) Develop and implement an affirmative action plan.

2884 (b) Establish annual goals for ensuring the full

2885 utilization of groups underrepresented in its workforce as
 2886 compared to the relevant labor market in this state and design
 2887 its affirmative action plan to meet those goals.

2888 (c) Appoint an affirmative action equal employment
 2889 opportunity officer.

2890 (d) Report annually to the Justice Administrative
 2891 Commission on the implementation, continuance, updating, and
 2892 results of his or her affirmative action program for the
 2893 previous fiscal year.

2894 (4) An individual claiming to be aggrieved by an unlawful
 2895 employment practice may file a complaint with the Florida
 2896 Commission on Human Relations as provided under s. 760.11.

2897 Section 52. Section 112.911, Florida Statutes, is created
 2898 to read:

2899 112.911 Nondiscrimination in employment.—

2900 (1) It is the policy of the state that all appointments,
 2901 terminations, assignments, and maintenance of status,
 2902 compensation, privileges, and other terms and conditions of
 2903 employment be made without regard to age, sex, race, color,
 2904 religion, national origin, political affiliation, marital
 2905 status, disability, or genetic information unless a specific
 2906 requirement constitutes a bona fide occupational qualification.

2907 (2) The state, its agencies, and its officers shall ensure
 2908 freedom from discrimination in employment as provided by the
 2909 Florida Civil Rights Act of 1992, s. 112.044, and this chapter.

2910 Section 53. Section 110.1221, Florida Statutes, is
 2911 transferred, renumbered as section 112.912, Florida Statutes,
 2912 and amended to read:

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2913 112.912 ~~110.1221~~ Sexual harassmt policy, ~~executive~~
 2914 ~~agency rules.~~—It is the policy of the state that sexual
 2915 harassmt is a form of discrimination. Each agency that has
 2916 authority to adopt rules governing the terms and conditions of
 2917 employment ~~The department~~ shall adopt uniform sexual harassmt
 2918 rules ~~applicable to all executive agencies.~~ Such ~~the~~ rules must
 2919 define the term "sexual harassmt" in a manner consistent with
 2920 the federal definition.

2921 Section 54. Section 110.122, Florida Statutes, is
 2922 transferred, renumbered as section 112.913, Florida Statutes,
 2923 and amended to read:

2924 112.913 ~~110.122~~ Terminal payment for accumulated sick
 2925 leave.—

2926 (1) All state branches, ~~departments,~~ and agencies that are
 2927 authorized ~~which have the authority~~ to establish or approve
 2928 personnel policies for employees and to employ personnel and
 2929 establish the conditions of their employment shall establish
 2930 policies that ~~to~~ provide terminal "incentive" pay for
 2931 accumulated and unused sick leave to each employee upon ~~normal~~
 2932 ~~or regular~~ retirement ~~for reason other than disability~~ or upon
 2933 termination of employment, or to the employee's beneficiary if
 2934 service is terminated by death, if ~~provided~~ such retirement,
 2935 termination, or death occurs after 10 years of creditable state
 2936 employment.

2937 (2) Each entity that is authorized to adopt rules
 2938 governing the terms and conditions of employment ~~The employing~~
 2939 ~~entity~~ shall establish and publish rules governing the
 2940 accumulation and use of sick leave. The employing entity shall

2941 ~~and~~ maintain accurate and reliable records showing the amount of
 2942 sick leave that ~~which~~ has accumulated and is unused by the
 2943 employee at the time of retirement, death, or termination.

2944 (3) The payments authorized by this section shall be
 2945 determined by using the rate of pay received by the employee at
 2946 the time of retirement, termination, or death, applied to the
 2947 sick leave time for which the employee is qualified to receive
 2948 terminal "incentive" pay under the rules adopted ~~by the~~
 2949 ~~department pursuant to the provisions of this section. The~~ rules
 2950 and policies must provide ~~adopted pursuant to this section shall~~
 2951 ~~permit~~ terminal pay for sick leave equal to one-fourth ~~one-~~
 2952 ~~eighth~~ of all unused sick leave credit ~~accumulated prior to~~
 2953 ~~October 1, 1973, plus one-fourth of all unused sick leave~~
 2954 ~~accumulated on or after October 1, 1973.~~ However, terminal pay
 2955 allowable for unused sick leave may ~~accumulated on or after~~
 2956 ~~October 1, 1973, shall~~ not exceed a ~~maximum~~ of 480 hours of
 2957 actual payment. ~~Employees shall be required to use all sick~~
 2958 ~~leave accumulated prior to October 1, 1973, before using sick~~
 2959 ~~leave accumulated on or after October 1, 1973.~~

2960 (4) The payments made pursuant to this section are ~~shall~~
 2961 not salary payments ~~be considered~~ in any state-administered
 2962 retirement system ~~as salary payments~~ and may ~~shall~~ not be used
 2963 in determining the average final compensation of an employee in
 2964 any state-administered retirement system.

2965 (5) All rights and benefits provided under this section
 2966 shall be forfeited by an ~~any~~ employee:

2967 (a) Who is found guilty in a court of competent
 2968 jurisdiction of committing, aiding, or abetting any embezzlement

2969 or theft from the employee's employer or bribery in connection
 2970 with the employment, committed before ~~prior to~~ retirement or 10
 2971 years of 10-year normal creditable state employment termination;

2972 (b) Whose employment is terminated by reason of the
 2973 employee having admitted committing, aiding, or abetting an
 2974 embezzlement or theft from his or her employer or by reason of
 2975 bribery;

2976 (c) Who, prior to 10 years of 10-year normal creditable
 2977 state employment termination or retirement, is adjudged by a
 2978 court of competent jurisdiction to have violated any state law
 2979 against strikes by public employees; or

2980 (d) Who has been found guilty by a court of competent
 2981 jurisdiction of violating any state law prohibiting strikes by
 2982 public employees, ~~shall forfeit all rights and benefits under~~
 2983 ~~this section.~~

2984 (6) An employee whose employment terminates as a result of
 2985 an act committed subject to ~~this~~ subsection (5) ~~may shall~~ not be
 2986 given credit for unused sick leave accumulated before ~~prior to~~
 2987 termination ~~if should~~ the employee is ~~be~~ reemployed at a later
 2988 date.

2989 Section 55. Section 110.121, Florida Statutes, is
 2990 transferred, renumbered as section 112.914, Florida Statutes,
 2991 and amended to read:

2992 112.914 110.121 Sick leave pool.—Each entity that
 2993 ~~department or agency of the state which~~ has authority to adopt
 2994 rules governing the accumulation and use of sick leave for
 2995 employees, and that which maintains accurate and reliable
 2996 records showing the amount of sick leave that which has been

2997 accumulated and is unused by employees, ~~may, in accordance with~~
 2998 ~~guidelines which shall be established by the Department of~~
 2999 ~~Management Services,~~ adopt rules establishing for the
 3000 ~~establishment of a plan that allows~~ allowing participating
 3001 employees to pool and use sick leave ~~and allowing any sick leave~~
 3002 ~~thus pooled to be used by any participating employee who has~~
 3003 ~~used all of the sick leave that has been personally accrued by~~
 3004 ~~him or her. Although not limited to the following,~~ Such rules
 3005 must shall provide, but need not be limited to:

3006 (1) Minimum eligibility criteria ~~That employees shall be~~
 3007 ~~eligible~~ for participation in the sick leave pool ~~after 1 year~~
 3008 ~~of employment with the state or agency of the state; provided~~
 3009 ~~that such employee has accrued a minimum amount of unused sick~~
 3010 ~~leave, which minimum shall be established by rule.~~

3011 (2) That participation in the sick leave pool is shall, ~~at~~
 3012 ~~all times,~~ be voluntary on the part of the employees.

3013 (3) That any sick leave pooled shall be removed from the
 3014 personally accumulated sick leave balance of the employee
 3015 contributing such leave.

3016 (4) That any sick leave in the pool which ~~leave~~ is used by
 3017 a participating employee is shall be used only for the
 3018 employee's personal illness, accident, or injury.

3019 (5) That a participating employee may shall not be
 3020 ~~eligible to~~ use sick leave accumulated in the pool until all of
 3021 his or her personally accrued sick, annual, and compensatory
 3022 leave and personal day have ~~has~~ been used.

3023 (6) The A maximum number of hours ~~days~~ of sick leave in
 3024 the pool which any one employee may use.

3025 (7) That a participating employee who uses sick leave from
 3026 the pool ~~is shall~~ not be required to recontribute such sick
 3027 leave to the pool, except as otherwise provided in this section.

3028 (8) That an employee who cancels his or her membership in
 3029 the sick leave pool may ~~shall not be eligible to~~ withdraw the
 3030 hours ~~days~~ of sick leave contributed by that employee to the
 3031 pool.

3032 (9) That an employee who moves ~~transfers~~ from a one
 3033 position in one agency state government to a another position in
 3034 another agency state government may transfer from one pool to
 3035 another if ~~the eligibility criteria of the pools are comparable~~
 3036 ~~or~~ the administrators of the pools have agreed on the ~~a formula~~
 3037 ~~for~~ transfer of credits.

3038 (10) That alleged abuse of the use of the sick leave pool
 3039 shall be investigated, and, on a finding of wrongdoing, the
 3040 employee must ~~shall~~ repay all of the sick leave credits drawn
 3041 from the sick leave pool and is ~~shall be~~ subject to such other
 3042 disciplinary action as is determined by the agency head.

3043 (11) That sick leave credits may be drawn from the sick
 3044 leave pool by a part-time employee on a pro rata basis.

3045 Section 56. Section 110.119, Florida Statutes, is
 3046 transferred, renumbered as section 112.915, Florida Statutes,
 3047 and amended to read:

3048 112.915 ~~110.119~~ Administrative leave for military-service-
 3049 connected ~~reexamination or treatment with respect to service-~~
 3050 ~~connected~~ disability.-

3051 ~~(1)~~ An ~~Any~~ employee ~~of the state~~ who has been rated by the
 3052 United States Department of Veterans Affairs or its predecessor

3053 | to have incurred a service-connected disability and has been
 3054 | scheduled by the United States Department of Veterans Affairs to
 3055 | be reexamined or treated for the disability shall be granted
 3056 | administrative leave for such reexamination or treatment without
 3057 | loss of pay or benefits. However, such ~~In no event shall the~~
 3058 | paid leave may not under this section exceed 48 hours per 6
 3059 | calendar ~~days~~ a year.

3060 | ~~(2) The department may adopt any rule necessary to carry~~
 3061 | ~~out the purpose of this section.~~

3062 | Section 57. Section 110.120, Florida Statutes, is
 3063 | transferred, renumbered as section 112.916, Florida Statutes,
 3064 | and amended to read:

3065 | 112.916 ~~110.120~~ Administrative leave for disaster service
 3066 | volunteers.-

3067 | (1) SHORT TITLE.-This section ~~shall be known and~~ may be
 3068 | cited as the "Florida Disaster Volunteer Leave Act."

3069 | (2) DEFINITIONS.-As used in this section, the following
 3070 | terms shall apply:

3071 | (a) "State agency" means any official, officer,
 3072 | commission, board, authority, council, committee, or department
 3073 | of the executive branch of state government.

3074 | (b) "Disaster" includes disasters designated at level II
 3075 | and above in the American National Red Cross regulations and
 3076 | procedures.

3077 | (3) LEAVE OF ABSENCE.-An employee of a state agency who is
 3078 | a certified disaster service volunteer of the American Red Cross
 3079 | may be granted a leave of absence with pay for up to ~~not more~~
 3080 | ~~than~~ 15 working days in any 12-month period to participate in

3081 specialized disaster relief services for the American Red Cross.
 3082 Such leave of absence may be granted upon the request of the
 3083 American Red Cross and upon the approval of the employer
 3084 ~~employee's employing agency~~. An employee granted leave under
 3085 this section may ~~shall~~ not be deemed ~~to be~~ an employee of the
 3086 state for purposes of workers' compensation. Leave under this
 3087 section ~~act~~ may be granted only for services related to a
 3088 disaster occurring within the boundaries of the State of
 3089 Florida, except that, with the approval of the Governor and
 3090 Cabinet, leave may be granted for services in response to a
 3091 disaster occurring within the boundaries of the United States.

3092 Section 58. Section 110.1091, Florida Statutes, is
 3093 transferred, renumbered as section 112.917, Florida Statutes,
 3094 and amended to read:

3095 112.917 ~~110.1091~~ Employee assistance programs; public
 3096 records exemption.—

3097 (1) A ~~An employing~~ state agency may provide a counseling,
 3098 therapeutic, or other professional treatment program to assist a
 3099 ~~any~~ state employee who has a behavioral disorder, medical
 3100 disorder, or substance abuse problem or who has an emotional
 3101 difficulty that affects the employee's job performance. The ~~Each~~
 3102 ~~employing state~~ agency may designate community diagnostic and
 3103 referral resources as necessary to implement ~~the provisions of~~
 3104 this subsection.

3105 (2) A state employee's personal identifying information
 3106 contained in records held by a ~~an employing~~ state agency
 3107 relating to an employee's participation in an employee
 3108 assistance program is confidential and exempt from ~~the~~

3109 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
 3110 Constitution.

3111 Section 59. Section 110.151, Florida Statutes, is
 3112 transferred, renumbered as section 112.918, Florida Statutes,
 3113 and amended to read:

3114 112.918 ~~110.151 State officers' and employees'~~ Child care
 3115 services.-

3116 (1) A state agency may establish ~~The Department of~~
 3117 ~~Management Services shall approve,~~ administer, and coordinate
 3118 child care services for ~~state officers' and employees'~~ children
 3119 or dependents. ~~Duties shall include, but not be limited to,~~
 3120 ~~reviewing and approving requests from state agencies for child~~
 3121 ~~care services; providing technical assistance on child care~~
 3122 ~~program startup and operation; and assisting other agencies in~~
 3123 ~~conducting needs assessments, designing centers, and selecting~~
 3124 ~~service providers.~~ Primary emphasis for child care services
 3125 shall be given to children who are not subject to compulsory
 3126 school attendance pursuant to part II of chapter 1003, and, to
 3127 the extent possible, emphasis shall be placed on child care for
 3128 children aged 2 and under.

3129 (2) Child care programs may be located in state-owned
 3130 office buildings, educational facilities and institutions,
 3131 custodial facilities and institutions, and, with the consent of
 3132 the President of the Senate and the Speaker of the House of
 3133 Representatives, ~~in~~ buildings or spaces used for legislative
 3134 activities. In addition, centers may be located in privately
 3135 owned buildings conveniently located to the place of employment
 3136 of those ~~officers and~~ employees to be served by the centers. If

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3137 | a child care program is located in a state-owned office
 3138 | building, educational facility or institution, or custodial
 3139 | facility or institution, or in a privately owned building leased
 3140 | by the state, a portion of the service provider's rental fees
 3141 | for child care space may be waived by the sponsoring agency in
 3142 | accordance with the rules of the department's Facilities Program
 3143 | ~~Department of Management Services~~. Additionally, the sponsoring
 3144 | state agency may be responsible for the maintenance, utilities,
 3145 | and other operating costs associated with the child care center.

3146 | (3) Except as otherwise provided in this section, the cost
 3147 | of child care services shall be offset by fees charged to
 3148 | employees who use the ~~child care~~ services. Requests for
 3149 | proposals may provide for a sliding fee schedule based on, ~~with~~
 3150 | ~~fees charged on the basis of~~ the employee's household income.

3151 | (4) The provider of proposed child care services shall be
 3152 | selected by competitive contract. ~~Requests for proposals shall~~
 3153 | ~~be developed with the assistance of, and subject to the approval~~
 3154 | ~~of, the Department of Management Services~~. Management of the
 3155 | contract with the service provider is ~~shall be~~ the
 3156 | responsibility of the sponsoring state agency.

3157 | (5) An operator selected to provide services must comply
 3158 | with all state and local standards for the licensure and
 3159 | operation of child care facilities, maintain adequate liability
 3160 | insurance coverage, and assume financial and legal
 3161 | responsibility for the operation of the program. ~~Neither~~ The
 3162 | operator of and ~~nor~~ any personnel employed by or at a child care
 3163 | facility may not ~~shall~~ be deemed ~~to be~~ employees of the state.
 3164 | However, the sponsoring state agency may be responsible for the

3165 operation of the child care center if ~~when~~:

3166 (a) A second request for proposals fails to procure a
3167 qualified service provider; or

3168 (b) The service provider's contract is canceled and
3169 attempts to procure another qualified service provider are
3170 unsuccessful;

3171

3172 ~~and plans for direct operation are approved by the Department of~~
3173 ~~Management Services.~~

3174 (6) In the areas where the state has an insufficient
3175 number of employees to justify a worksite center, a state agency
3176 may join in a consortium arrangement using ~~utilizing~~ available
3177 state facilities with not-for-profit corporations or other
3178 public employers to provide child care services to ~~both~~ public
3179 employees and employees of private sector employers. The
3180 consortium agreement must first address the unmet child care
3181 needs of the children of the public employees whose employers
3182 are members of the consortium, and then address the child care
3183 needs of private-sector ~~private sector~~ employees.

3184 ~~(7) The Department of Management Services may adopt any~~
3185 ~~rules necessary to achieve the purposes of this section.~~

3186 Section 60. Section 110.181, Florida Statutes, is
3187 transferred and renumbered as section 112.919, Florida Statutes,
3188 and paragraph (b) of subsection (1) and paragraphs (d) and (e)
3189 of subsection (2) of that section are amended to read:

3190 112.919 ~~110.181~~ Florida State Employees' Charitable
3191 Campaign.—

3192 (1) CREATION AND ORGANIZATION OF CAMPAIGN.—

3193 (b) State officers' and employees' contributions toward
 3194 the Florida State Employees' Charitable Campaign must be
 3195 entirely voluntary. State officers and employees must designate
 3196 a charitable organization to receive such contributions.

3197 (2) SELECTION OF FISCAL AGENTS; COST.—

3198 ~~(d) A local steering committee shall be established in~~
 3199 ~~each fiscal agent area to assist in conducting the campaign and~~
 3200 ~~to direct the distribution of undesignated funds remaining after~~
 3201 ~~partial distribution pursuant to paragraph (c). The committee~~
 3202 ~~shall be composed of state employees selected by the fiscal~~
 3203 ~~agent from among recommendations provided by interested~~
 3204 ~~participating organizations, if any, and approved by the~~
 3205 ~~Statewide Steering Committee.~~

3206 ~~(e) Participating charitable organizations that provide~~
 3207 ~~direct services in a local fiscal agent's area shall receive the~~
 3208 ~~same percentage of undesignated funds as the percentage of~~
 3209 ~~designated funds they receive. The undesignated funds remaining~~
 3210 ~~following allocation to these charitable organizations shall be~~
 3211 ~~distributed by the local steering committee.~~

3212 Section 61. Section 110.1225, Florida Statutes, is
 3213 transferred, renumbered as section 112.920, Florida Statutes,
 3214 and amended to read:

3215 112.920 110.1225 Furloughs.—~~If~~ When a deficit is projected
 3216 ~~by the Revenue Estimating Conference pursuant to s. 216.136(3),~~
 3217 in any state agency fund that supports salary and benefit
 3218 appropriations, the agency Administration Commission may, upon
 3219 the approval by the Governor or the Chief Justice of the Supreme
 3220 Court, propose a furlough plan to the Legislative Budget

3221 Commission Legislature, which must approve or disapprove such
 3222 plan. The plan must identify all affected positions and ensure
 3223 that all affected employees within a budget entity are subject
 3224 to the same reduction of hours for the same number of pay
 3225 periods with a commensurate reduction in pay. If authorized by
 3226 the Legislature as a cost-savings measure to address anticipated
 3227 short-term shortfalls to funds that support salary and benefit
 3228 appropriations for a specified fiscal year, an agency may also
 3229 impose furloughs as directed by the Legislature in the General
 3230 Appropriations Act. For the purposes of this section, the term
 3231 "furlough" means a temporary reduction in the regular hours of
 3232 employment administered as leave without pay.

3233 Section 62. Section 110.1155, Florida Statutes, is
 3234 transferred and renumbered as section 112.921, Florida Statutes.

3235 Section 63. Section 110.191, Florida Statutes, is
 3236 transferred, renumbered as section 112.922, Florida Statutes,
 3237 and amended to read:

3238 112.922 ~~110.191~~ State employee leasing.—

3239 (1) ~~If in situations where~~ the Legislature has expressly
 3240 authorized a ~~the state, an agency, or the judicial branch as~~
 3241 ~~defined in s. 110.107~~ to lease employees, the Executive Office
 3242 of the Governor for the executive branch or the Chief Justice
 3243 for the judicial branch may authorize ~~any of~~ the following
 3244 actions related to such state employee leasing activities,
 3245 provided that the direct cost of such actions is to be paid or
 3246 reimbursed within 30 days after payment by the entity or person
 3247 to whom the employees are leased:

3248 (a) Creation of ~~Create~~ a separate budget entity from which

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3249 leased employees are ~~shall be~~ paid and the transfer of the
 3250 positions authorized to be leased to that budget entity.

3251 (b) ~~Provide~~ Increases in the operating budget entity.

3252 (c) ~~Authorized~~ Lump-sum salary bonuses to leased
 3253 employees. ~~+~~ However, any lump-sum salary bonus above the
 3254 automatic salary increases which may be contained in the General
 3255 Appropriations Act must be funded from private sources.

3256 (d) ~~Approve~~ Increases in salary rate for positions that
 3257 ~~which~~ are leased. ~~+~~ However, any salary rate above the automatic
 3258 salary increases which may be contained in the General
 3259 Appropriations Act must be funded from private sources.

3260 (e) The waiver of ~~Waive~~ any requirement for automatic
 3261 salary increases which may be contained in the General
 3262 Appropriations Act.

3263 (2) Positions that ~~which~~ are in the Senior Management
 3264 Service ~~System~~ or the Selected Exempt Service ~~System~~ on the day
 3265 before the state employee lease agreement takes effect ~~shall~~
 3266 remain in the respective system if the duties performed by the
 3267 position during the assignment of the state employee lease
 3268 agreement are comparable as determined by the department. Those
 3269 senior management service ~~system~~ or selected exempt service
 3270 ~~system~~ positions that ~~which~~ are not determined comparable by the
 3271 department, and positions that ~~which~~ are in other pay plans on
 3272 the day before the lease agreement takes effect, ~~shall~~ have the
 3273 same salaries and benefits provided to employees of the Office
 3274 of the Governor pursuant to s. 110.205(2)(h)2. ~~110.205(2)(1)2.~~

3275 Section 64. Section 110.1082, Florida Statutes, is
 3276 transferred, renumbered as section 112.923, Florida Statutes,

3277 and amended to read:

3278 112.923 ~~110.1082~~ Telephone ~~voice mail systems and~~
 3279 ~~telephone menu options~~ systems.-

3280 (1) ~~A No~~ state employee may not use ~~shall utilize~~ a voice
 3281 mail system when the employee is at his or her regularly
 3282 assigned work station where his or her telephone is functional
 3283 and available for use, unless:

3284 (a) The telephone device is in use, ~~and/or;~~

3285 (b) The ~~Such~~ voice mail system alerts the caller to, and
 3286 provides the caller with access to, a nonelectronic attendant;
 3287 or

3288 (c) The ~~Such~~ voice mail system automatically transfers the
 3289 caller to a nonelectronic attendant.

3290 (2) Telephone menu options systems used by state agencies
 3291 ~~must, departments, or other state government units will~~ alert
 3292 the caller to, and provide the caller with access to, a
 3293 nonelectronic attendant.

3294 (3) Agency heads shall ~~will~~ ensure compliance with ~~the~~
 3295 ~~provisions of~~ this section.

3296 Section 65. Section 110.1165, Florida Statutes, is
 3297 transferred and renumbered as section 112.924, Florida Statutes,
 3298 and subsections (1) and (2) of that section are amended to read:

3299 112.924 ~~110.1165~~ Executive branch personnel errors;
 3300 limitation of actions for compensation.-

3301 (1) An agency of the executive branch, including the State
 3302 University System, shall establish procedures for the receipt,
 3303 consideration, and disposition of a claim regarding pay or
 3304 benefits brought by an employee if the ~~when that~~ employee is

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3305 damaged as a result of being provided with erroneous written
 3306 information by the ~~employing~~ agency regarding his or her pay or
 3307 benefits, and the employee detrimentally relies upon such
 3308 written information. In order to qualify for ~~the relief provided~~
 3309 ~~by this section~~, the employee's reliance on the representation
 3310 must have been reasonable and based ~~only~~ upon only the written
 3311 representations made by those persons authorized by the agency
 3312 head to make such representations. ~~Furthermore,~~ The erroneous
 3313 calculation and payment of an employee's salary, wages, or
 3314 benefits is not among the written representations that ~~which~~
 3315 ~~will~~ trigger relief under this section.

3316 (2) An agency of the executive branch, including the State
 3317 University System, ~~may is authorized to take~~ appropriate such
 3318 ~~action as may be appropriate~~ to provide a remedy for an employee
 3319 concerning his or her claim regarding detrimental reliance on
 3320 erroneous written information provided by the ~~employing~~ agency
 3321 relating to pay and benefits if, ~~provided~~ such remedy is within
 3322 the purview of the agency's authority. The agency may not ~~has no~~
 3323 ~~authority whatsoever~~ to modify the state retirement system or
 3324 the state insurance program. Any monetary remedy afforded by the
 3325 agency must fall within the agency's budgetary authority. Any
 3326 person dissatisfied with the outcome of this process may file
 3327 ~~either~~ a grievance pursuant to the agency's internal grievance
 3328 process or an appeal to the Division of Administrative Hearings
 3329 pursuant to chapter 120, but not both.

3330 Section 66. Section 110.113, Florida Statutes, is
 3331 transferred, renumbered as section 112.925, Florida Statutes,
 3332 and amended to read:

3333 112.925 ~~110.113~~ Pay periods for state officers and
 3334 employees; salary payments by direct deposit.-

3335 (1) ~~The normal pay period for salaries of state officers~~
 3336 ~~and employees shall be 1 month.~~ The Department of Financial
 3337 Services shall issue ~~either~~ monthly or biweekly salary payments
 3338 to state officers and employees by state warrants or by direct
 3339 ~~deposit~~ pursuant to s. 17.076 ~~or make semimonthly salary~~
 3340 ~~payments by direct deposit pursuant to s. 17.076,~~ as requested
 3341 by each state employment system and the head of each state
 3342 ~~agency and approved by the Executive Office of the Governor and~~
 3343 ~~the~~ Department of Financial Services.

3344 (2) As a condition of employment, a ~~person appointed to a~~
 3345 ~~position in state~~ employee must ~~government is required to~~
 3346 participate in the direct deposit program pursuant to s. 17.076.
 3347 An employee may request an exemption from ~~the provisions of this~~
 3348 subsection if the ~~when such~~ employee can demonstrate a hardship
 3349 or if the ~~when such~~ employee is in an other-personal-services
 3350 position.

3351 Section 67. Section 110.114, Florida Statutes, is
 3352 transferred and renumbered as section 112.926, Florida Statutes.

3353 Section 68. Section 112.927, Florida Statutes, is created
 3354 to read:

3355 112.927 Human resource information system.-The department
 3356 may contract with other agencies or state governmental entities
 3357 outside the State Personnel System to establish and maintain
 3358 positions and use the human resource information system
 3359 established under s. 110.116 for its human resource
 3360 functionality as well as benefits administration. The use and

3361 operation of the human resource information system shall be
 3362 based upon the design rules set forth by the department, and
 3363 such agencies and state governmental entities may be required to
 3364 conform their respective human resource business rules and
 3365 practices to the business rules and practices existing within
 3366 the human resource information system in order to minimize
 3367 additional system customization and to maximize system
 3368 efficiencies. Payment for usage shall be in accordance with s.
 3369 110.125(2).

3370 Section 69. Section 110.1127, Florida Statutes, is
 3371 transferred, renumbered as section 112.928, Florida Statutes,
 3372 and amended to read:

3373 112.928 ~~110.1127~~ Employee background screening and
 3374 investigations ~~security checks.~~

3375 (1) Except as provided in subsection (2), each state
 3376 agency shall designate those positions that, based on the
 3377 position duties, require security background screening. All
 3378 persons and employees in such positions must undergo employment
 3379 screening in accordance with chapter 435, using level 1
 3380 screening standards, as a condition of employment and continued
 3381 employment.

3382 (2) ~~(1)~~ Each state employing agency shall designate those
 3383 employee positions that, because of the special trust or
 3384 responsibility or sensitive location, require security
 3385 background investigations. All persons and employees in such
 3386 positions must undergo employment screening in accordance with
 3387 chapter 435, using level 2 screening standards ~~of these~~
 3388 positions, require that persons occupying those positions be

3389 ~~subject to a security background check, including~~
 3390 ~~fingerprinting, as a condition of employment and continued~~
 3391 ~~employment.~~

3392 ~~(2)~~(a) All positions within the Division of Treasury of
 3393 the Department of Financial Services are deemed to be positions
 3394 of special trust or responsibility. Individuals seeking or
 3395 holding such positions, ~~and a person~~ may be disqualified for
 3396 employment ~~in any such position~~ by reason of:

3397 1. The conviction or prior conviction of a crime that
 3398 ~~which~~ is reasonably related to the nature of the position sought
 3399 or held by the individual; or

3400 2. The entering of a plea of nolo contendere, or ~~7~~ when a
 3401 jury verdict of guilty is rendered but adjudication of guilt is
 3402 withheld, with respect to a crime that ~~which~~ is reasonably
 3403 related to the nature of the position sought or held by the
 3404 individual.

3405 ~~(b) All employees of the division shall be required to~~
 3406 ~~undergo security background investigations, including~~
 3407 ~~fingerprinting, as a condition of employment and continued~~
 3408 ~~employment.~~

3409 (b) ~~(3)~~(a) All positions in programs providing care to
 3410 children, the developmentally disabled, or vulnerable adults for
 3411 15 hours or more per week; all permanent and temporary employee
 3412 positions of the central abuse hotline; and all persons working
 3413 under contract who have access to abuse records are deemed to be
 3414 persons and positions of special trust or responsibility, ~~and~~
 3415 ~~require employment screening pursuant to chapter 435, using the~~
 3416 ~~level 2 standards set forth in that chapter.~~

3417 1.~~(b)~~ The ~~employing~~ agency may grant exemptions from
 3418 disqualification from working with children, the developmentally
 3419 disabled, or vulnerable adults as provided in s. 435.07.

3420 ~~(c) All persons and employees in such positions of trust~~
 3421 ~~or responsibility shall be required to undergo security~~
 3422 ~~background investigations as a condition of employment and~~
 3423 ~~continued employment. For the purposes of this subsection,~~
 3424 ~~security background investigations shall be conducted as~~
 3425 ~~provided in chapter 435, using the level 2 standards for~~
 3426 ~~screening set forth in that chapter.~~

3427 2.~~(d)~~ It is a misdemeanor of the first degree, punishable
 3428 as provided in s. 775.082 or s. 775.083, for any person
 3429 willfully, knowingly, or intentionally to:

3430 a.1. Fail, by false statement, misrepresentation,
 3431 impersonation, or other fraudulent means, to disclose in any
 3432 application for voluntary or paid employment a material fact
 3433 used in making a determination as to such person's
 3434 qualifications for a position of special trust;

3435 b.2. Use ~~records~~ information contained in records for
 3436 purposes other than background screening or investigation for
 3437 employment, or release such records information to other persons
 3438 for purposes other than preemployment screening or investigation
 3439 ~~for employment.~~

3440 3.~~(e)~~ It is a felony of the third degree, punishable as
 3441 provided in s. 775.082, s. 775.083, or s. 775.084, for any
 3442 person willfully, knowingly, or intentionally to use juvenile
 3443 records information for any purposes other than those specified
 3444 in this section or to release such information to other persons

3445 for purposes other than those specified in this section.

3446 ~~(3)(4)~~ Any person who is required to undergo such a
 3447 security background screening or investigation and who refuses
 3448 to cooperate in such screening or investigation or refuses to
 3449 submit fingerprints shall be disqualified for employment in such
 3450 position or, if employed, shall be dismissed.

3451 ~~(4)(5)~~ ~~Such~~ Background screening and investigations shall
 3452 be conducted at the expense of the employing agency. If ~~When~~
 3453 fingerprinting is required, the fingerprints ~~of the employee or~~
 3454 ~~applicant for employment~~ shall be taken by the ~~employing~~ agency
 3455 or by an authorized law enforcement officer, ~~and~~ submitted to
 3456 the Department of Law Enforcement for processing, and, if
 3457 ~~forwarding, when~~ requested by the employing agency, forwarded to
 3458 the United States Department of Justice for processing. The
 3459 ~~employing~~ agency shall reimburse the Department of Law
 3460 Enforcement for any costs incurred for ~~by it in the~~ processing
 3461 ~~of~~ the fingerprints.

3462 Section 70. Section 110.117, Florida Statutes, is
 3463 transferred, renumbered as section 112.929, Florida Statutes,
 3464 and amended to read:

3465 112.929 ~~110.117~~ Paid holidays and personal day.-

3466 (1) The following holidays are ~~shall be~~ paid holidays
 3467 observed by all state branches and agencies:

3468 (a) New Year's Day.

3469 (b) Birthday of Martin Luther King, Jr., third Monday in
 3470 January.

3471 (c) Memorial Day.

3472 (d) Independence Day.

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- 3473 (e) Labor Day.
- 3474 (f) Veterans' Day, November 11.
- 3475 (g) Thanksgiving Day.
- 3476 (h) Friday after Thanksgiving.
- 3477 (i) Christmas Day.
- 3478 (j) If any of these holidays falls on Saturday, the
- 3479 preceding Friday shall be observed as a holiday. If any of these
- 3480 holidays falls on Sunday, the following Monday shall be observed
- 3481 as a holiday.

3482 (2) The Governor may declare, if ~~when~~ appropriate, a state

3483 day of mourning in observance of the death of a person in

3484 recognition of service rendered to the state or nation.

3485 (3) Each full-time employee in an authorized and

3486 established position is entitled to one personal day holiday

3487 each year. Each part-time employee is entitled to a personal day

3488 holiday each year, which shall be calculated based on the full-

3489 time equivalency of the position proportionately to the personal

3490 holiday allowed to a full-time employee. The Such personal day

3491 holiday shall be credited to eligible employees on July 1 of

3492 each year and must ~~to~~ be taken by ~~prior to~~ June 30 of the

3493 following year or forfeited. The personal day must be taken as a

3494 whole day and may not be used incrementally. Members of the

3495 teaching and research faculty of the State University System and

3496 administrative and professional positions exempted under s.

3497 110.205(2)(d) are not eligible for this benefit.

3498 (4) Other-personal-services employees are not eligible for

3499 paid holidays or a personal day.

3500 Section 71. Section 112.930, Florida Statutes, is created

3501 to read:

3502 112.930 Telework program.—

3503 (1) For the purposes of this section, the term "telework"
 3504 means an alternative work arrangement that allows an employee to
 3505 conduct all or some of his or her work away from the official
 3506 worksite during all or a portion of the employee's established
 3507 work hours on a regular basis. The term does not include, and a
 3508 telework agreement is not required for:

3509 (a) Performance of required work duties away from the
 3510 official worksite and outside of established work hours on an
 3511 occasional basis and sporadically working away from the official
 3512 worksite during all or some portion of the established work
 3513 hours. These arrangements may be used by an agency to
 3514 accommodate extenuating circumstances by allowing an employee to
 3515 maintain productivity away from the official worksite.

3516 (b) Duties and responsibilities that, by their nature, are
 3517 performed routinely in the field away from the official
 3518 worksite.

3519 (2) An agency may establish telework as an integral part
 3520 of the normal business operations of the agency and require that
 3521 specific work be performed through telework arrangements.
 3522 Telework may also be used as part of an agency's continuity of
 3523 operations plan where appropriate. An agency shall provide
 3524 telework as an optional alternative work arrangement to support
 3525 employee needs and implement telework arrangements where deemed
 3526 appropriate.

3527 (3) Each agency shall review all established positions and
 3528 designate those positions that the agency deems appropriate for

3529 telework. The agency shall ensure this information is current
 3530 and available to its employees and managers. In addition, each
 3531 agency shall identify all currently participating employees and
 3532 their respective positions in the human resource information
 3533 system used by that agency.

3534 (4) Agencies that have a telework program shall develop an
 3535 agency plan that addresses the agency's telework policies and
 3536 procedures. At a minimum, an agency telework plan must:

3537 (a) Establish criteria for evaluating the ability of
 3538 employees to satisfactorily perform in a telework arrangement.

3539 (b) Establish performance standards that ensure that
 3540 employees participating in the program maintain satisfactory
 3541 performance levels.

3542 (c) Ensure teleworkers are subject to the same rules and
 3543 disciplinary actions as other employees.

3544 (d) Establish the reasonable conditions that the agency
 3545 plans to impose in order to ensure appropriate use and
 3546 maintenance of any equipment issued by the agency.

3547 (e) Establish a system for monitoring the productivity of
 3548 teleworking employees which ensures that the work output remains
 3549 at a satisfactory level and that the duties and responsibilities
 3550 of the position remain suitable for a telework arrangement.

3551 (f) Establish the appropriate physical and electronic
 3552 information security controls to be maintained by a teleworker
 3553 at the telework site.

3554 (g) Prohibit employees engaged in telework from conducting
 3555 face-to-face state business at their residence.

3556 (5) Agencies that approve employees to use telework as an

3557 optional alternative work arrangement shall:

3558 (a) Require a written agreement between the teleworker and
 3559 the agency which specifies the terms and conditions of the
 3560 telework arrangement and provides for the termination of an
 3561 employee's participation in the program if the employee's
 3562 continued participation is not in the best interest of the
 3563 agency.

3564 (b) Ensure that participation by an employee is voluntary
 3565 and that the employee may discontinue participation after
 3566 providing reasonable notice to the agency.

3567 (6) Agencies that require certain employees to telework as
 3568 a part of normal business operations shall:

3569 (a) Include the requirement to telework and the associated
 3570 terms and conditions as part of the position description,
 3571 specifying the minimum amount of telework time required.

3572 (b) Provide at least 30 calendar days' written notice to
 3573 affected employees of intent to impose or remove a requirement
 3574 to telework.

3575 (c) Provide at least 15 calendar days' written notice to
 3576 affected employees of intent to revise the terms and conditions
 3577 of their current telework arrangement.

3578 (d) Provide equipment and supplies to an employee
 3579 necessary to carry out job functions from the telework site.

3580 (e) Specify the telework requirement in any recruitment
 3581 activities.

3582 (7) Agencies that have a telework program shall establish
 3583 and track performance measures that support telework program
 3584 analysis and report data annually to the department's Facilities

3585 Program in accordance with s. 255.249(3)(d). Such measures must
 3586 include, but need not be limited to, those that quantify:

3587 (a) Financial impacts associated with changes in office
 3588 space requirements resulting from the telework program. State
 3589 agencies operating in office space owned or managed by the
 3590 department shall consult the Facilities Program to ensure
 3591 consistency with the strategic leasing plan required under s.
 3592 255.249(3)(b).

3593 (b) Energy consumption changes resulting from the telework
 3594 program.

3595 (c) Greenhouse gas emission changes resulting from the
 3596 telework program.

3597 (8) Agencies that have a telework program shall post the
 3598 agency telework plan and any pertinent supporting documents on
 3599 the agency website to allow access by employees and the public.

3600 (9) Agencies may approve other-personal-services employees
 3601 to participate in telework programs.

3602 (10) Each agency that is authorized to adopt rules
 3603 governing the terms and conditions of employment may adopt rules
 3604 necessary to administer this section.

3605 Section 72. Section 112.931, Florida Statutes, is created
 3606 to read:

3607 112.931 Savings sharing program.—Each state agency that is
 3608 authorized to adopt rules governing the terms and conditions of
 3609 employment may adopt rules that prescribe procedures and promote
 3610 a savings sharing program for an individual or group of
 3611 employees who propose procedures or ideas that are adopted and
 3612 that result in eliminating or reducing state expenditures if

3613 such proposals are placed in effect and may be implemented under
 3614 current statutory authority.

3615 (1) The agency head shall recommend employees individually
 3616 or by group for a monetary award that is directly related to the
 3617 cost savings realized. Each proposed award and the amount of the
 3618 award must be approved by the Legislative Budget Commission.

3619 (2) Unless otherwise provided by law, all state agencies
 3620 may participate in the program. The Chief Justice may establish
 3621 a savings sharing program for employees of the judicial branch
 3622 within the parameters established under this section. The
 3623 program applies to all employees within the Civil Service and
 3624 the Selected Exempt Service and comparable employees within the
 3625 judicial branch.

3626 (3) The department and the judicial branch shall annually
 3627 submit information to the President of the Senate and the
 3628 Speaker of the House of Representatives which outlines each
 3629 agency's level of participation in the program. At a minimum,
 3630 the information must include:

3631 (a) The number of proposals made.

3632 (b) The number of awards and amount of money awarded to
 3633 employees or groups for adopted proposals.

3634 (c) The actual cost savings realized as a result of
 3635 implementing the proposals.

3636 Section 73. Section 110.1156, Florida Statutes, is
 3637 transferred and renumbered as section 112.932, Florida Statutes.

3638 Section 74. Section 112.933, Florida Statutes, is created
 3639 to read:

3640 112.933 Penalties.—

3641 (1) Any person who willfully violates any provision of
 3642 this part or any rules adopted pursuant to this part commits a
 3643 misdemeanor of the second degree, punishable as provided in s.
 3644 775.082 or s. 775.083.

3645 (2) Notwithstanding s. 112.011, any person who is
 3646 convicted of a misdemeanor under this part is ineligible for
 3647 appointment to or employment in a state position for 5 years. If
 3648 such person is an employee of the state, he or she must forfeit
 3649 his or her position.

3650 (3) Imposition of the penalties provided in this section
 3651 may not be in lieu of any action that may be taken or penalties
 3652 that may be imposed pursuant to part III of this chapter.

3653 Section 75. The Division of Statutory Revision is
 3654 requested to create part X of chapter 112, Florida Statutes,
 3655 consisting of ss. 112.940-112.952, Florida Statutes, to be
 3656 entitled "State Administered Benefits."

3657 Section 76. Section 110.1227, Florida Statutes, is
 3658 transferred, renumbered as section 112.940, Florida Statutes,
 3659 and paragraph (c) of subsection (1) of that section is amended
 3660 to read:

3661 112.940 ~~110.1227~~ Florida Employee Long-Term-Care Plan
 3662 Act.—

3663 (1) The Legislature finds that state expenditures for
 3664 long-term-care services continue to increase at a rapid rate and
 3665 that the state faces increasing pressure in its efforts to meet
 3666 the long-term-care needs of the public.

3667 (c) This section does not affect ~~act in no way affects~~ the
 3668 authority of the Department of Management Services ~~Services~~!

3669 authority pursuant to s. 112.942 ~~110.123~~.

3670 Section 77. Section 110.1228, Florida Statutes, is
 3671 transferred and renumbered as section 112.941, Florida Statutes,
 3672 and subsection (2) of that section is amended to read:

3673 112.941 ~~110.1228~~ Participation by small counties, small
 3674 municipalities, and district school boards located in small
 3675 counties.—

3676 (2) The governing body of a small county or small
 3677 municipality or a district school board may apply for
 3678 participation in the state group health insurance program
 3679 authorized in s. 112.942 ~~110.123~~ and the prescription drug
 3680 coverage program authorized by s. 112.946 ~~110.12315~~ by
 3681 submitting an application along with a \$500 nonrefundable fee to
 3682 the department.

3683 Section 78. Section 110.123, Florida Statutes, is
 3684 transferred and renumbered as section 112.942, Florida Statutes,
 3685 and paragraphs (f) and (h) of subsection (3) and paragraph (c)
 3686 of subsection (4) of that section are amended to read:

3687 112.942 ~~110.123~~ State group insurance program.—

3688 (3) STATE GROUP INSURANCE PROGRAM.—

3689 (f) Except as provided for in subparagraph (h)2., the
 3690 state contribution toward the cost of any plan in the state
 3691 group insurance program shall be uniform with respect to all
 3692 state employees in a state collective bargaining unit
 3693 participating in the same coverage tier in the same plan. This
 3694 section does not prohibit the development of separate benefit
 3695 plans for officers and employees exempt from the Civil ~~career~~
 3696 Service or the development of separate benefit plans for each

3697 collective bargaining unit.

3698 (h)1. In lieu of participating in the state group health
 3699 insurance plan, a person eligible to participate in the state
 3700 group insurance program may be authorized by department rules
 3701 ~~adopted by the department, in lieu of participating in the state~~
 3702 ~~group health insurance plan, to exercise an option to elect~~
 3703 membership in a health maintenance organization (HMO) plan ~~which~~
 3704 ~~is~~ under contract with the state in accordance with criteria
 3705 established by this section and adopted ~~by said~~ rules. The offer
 3706 of optional membership in an HMO ~~a health maintenance~~
 3707 ~~organization~~ plan ~~permitted by this paragraph~~ may be limited or
 3708 conditioned by rule as ~~may be~~ necessary to meet the requirements
 3709 of state and federal laws.

3710 2. The department shall contract with HMOs ~~health~~
 3711 ~~maintenance organizations~~ seeking to participate in the state
 3712 group insurance program through a request for proposal or other
 3713 procurement process, as developed by the Department of
 3714 Management Services and determined to be appropriate.

3715 a. The department shall establish a schedule of minimum
 3716 benefits for HMO ~~health maintenance organization~~ coverage which
 3717 includes, ~~and that schedule shall include:~~ physician services;
 3718 inpatient and outpatient hospital services; emergency medical
 3719 services, including out-of-area emergency coverage; diagnostic
 3720 laboratory and diagnostic and therapeutic radiologic services;
 3721 mental health, alcohol, and chemical dependency treatment
 3722 services meeting the minimum requirements of state and federal
 3723 law; skilled nursing facilities and services; prescription
 3724 drugs; age-based and gender-based wellness benefits; and other

3725 benefits as may be required by the department. Additional
 3726 services may be provided subject to the contract between the
 3727 department and the HMO. As used in this paragraph, the term
 3728 "age-based and gender-based wellness benefits" includes aerobic
 3729 exercise, education in alcohol and substance abuse prevention,
 3730 blood cholesterol screening, health risk appraisals, blood
 3731 pressure screening and education, nutrition education, program
 3732 planning, safety belt education, smoking cessation, stress
 3733 management, weight management, and women's health education.

3734 b. The department may establish uniform deductibles,
 3735 copayments, coverage tiers, or coinsurance schedules for all
 3736 participating HMO plans.

3737 c. The department may require detailed information from
 3738 each HMO ~~health-maintenance-organization~~ participating in the
 3739 procurement process, including information pertaining to
 3740 organizational status, experience in providing prepaid health
 3741 benefits, accessibility of services, financial stability of the
 3742 plan, quality of management services, accreditation status,
 3743 quality of medical services, network access and adequacy,
 3744 performance measurement, ability to meet the department's
 3745 reporting requirements, and the actuarial basis of the proposed
 3746 rates and other data determined by the director to be necessary
 3747 for the evaluation and selection of HMO ~~health-maintenance~~
 3748 ~~organization~~ plans and negotiation of appropriate rates for
 3749 these plans. Upon receipt of proposals by HMO ~~health-maintenance~~
 3750 ~~organization~~ plans and the evaluation of those proposals, the
 3751 department may enter into negotiations with all ~~of the plans~~ or
 3752 a subset of the plans, as the department determines appropriate.

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3753 ~~Nothing shall preclude~~ The department may negotiate ~~from~~
 3754 ~~negotiating~~ regional or statewide contracts with HMO health
 3755 ~~maintenance organization~~ plans if ~~when this is~~ cost-effective
 3756 and if ~~when~~ the department determines that the plan offers high
 3757 value to enrollees.

3758 d. The department may limit the number of HMOs that it
 3759 contracts with in each service area based on the nature of the
 3760 bids the department receives, the number of state employees in
 3761 the service area, or any unique geographical characteristics of
 3762 the service area. The department shall establish by rule service
 3763 areas throughout the state.

3764 e. All persons participating in the state group insurance
 3765 program may be required to contribute toward ~~towards~~ a total
 3766 state group health premium that may vary depending upon the plan
 3767 and coverage tier selected by the enrollee and the level of
 3768 state contribution authorized by the Legislature.

3769 3. The department may ~~is authorized to~~ negotiate and ~~to~~
 3770 contract with specialty psychiatric hospitals for mental health
 3771 benefits, on a regional basis, for alcohol, drug abuse, and
 3772 mental and nervous disorders. ~~The department may establish,~~
 3773 Subject to the approval of the Legislature pursuant to
 3774 subsection (5), the department may establish ~~any~~ such regional
 3775 plan upon completion of an actuarial study to determine any
 3776 impact on plan benefits and premiums.

3777 ~~4. In addition to contracting pursuant to subparagraph 2.,~~
 3778 ~~the department may enter into contract with any HMO to~~
 3779 ~~participate in the state group insurance program which:~~

3780 a. ~~Serves greater than 5,000 recipients on a prepaid basis~~

3781 ~~under the Medicaid program;~~
 3782 ~~b. Does not currently meet the 25 percent non-~~
 3783 ~~Medicare/non-Medicaid enrollment composition requirement~~
 3784 ~~established by the Department of Health excluding participants~~
 3785 ~~enrolled in the state group insurance program;~~
 3786 ~~e. Meets the minimum benefit package and copayments and~~
 3787 ~~deductibles contained in sub-subparagraphs 2.a. and b.;~~
 3788 ~~d. Is willing to participate in the state group insurance~~
 3789 ~~program at a cost of premiums that is not greater than 95~~
 3790 ~~percent of the cost of HMO premiums accepted by the department~~
 3791 ~~in each service area; and~~
 3792 ~~e. Meets the minimum surplus requirements of s. 641.225.~~
 3793
 3794 ~~The department is authorized to contract with HMOs that meet the~~
 3795 ~~requirements of sub-subparagraphs a. d. prior to the open~~
 3796 ~~enrollment period for state employees. The department is not~~
 3797 ~~required to renew the contract with the HMOs as set forth in~~
 3798 ~~this paragraph more than twice. Thereafter, the HMOs shall be~~
 3799 ~~eligible to participate in the state group insurance program~~
 3800 ~~only through the request for proposal or invitation to negotiate~~
 3801 ~~process described in subparagraph 2.~~
 3802 4.5. All enrollees in a state group health insurance plan,
 3803 a TRICARE supplemental insurance plan, or an HMO ~~any health~~
 3804 ~~maintenance organization~~ plan have the option of changing to
 3805 another ~~any other~~ health plan ~~that is~~ offered by the state
 3806 within an ~~any~~ open enrollment period designated by the
 3807 department. Open enrollment shall be held at least once each
 3808 calendar year.

3809 5.6. ~~If~~ ~~When~~ a contract between a treating provider and
 3810 the state-contracted HMO ~~health-maintenance-organization~~ is
 3811 terminated for any reason other than for cause, each party must
 3812 ~~shall~~ allow an ~~any~~ enrollee for whom treatment was active to
 3813 continue coverage and care when medically necessary, through
 3814 completion of treatment of a condition for which the enrollee
 3815 was receiving care at the time of the termination, until the
 3816 enrollee selects another treating provider, or until the next
 3817 open enrollment period ~~offered~~, whichever is later ~~longer~~, but
 3818 no later ~~longer~~ than 6 months after termination of the contract.
 3819 Each party to the terminated contract must ~~shall~~ allow an
 3820 enrollee who has initiated a course of prenatal care, regardless
 3821 of the trimester in which care was initiated, to continue care
 3822 and coverage until completion of postpartum care. This does not
 3823 prevent a provider from refusing to continue to provide care to
 3824 an enrollee who is abusive, noncompliant, or in arrears in
 3825 payments for services provided. For care continued under this
 3826 subparagraph, the program and the provider ~~shall~~ continue to be
 3827 bound by the terms of the terminated contract. Changes made
 3828 within 30 days before termination of a contract are effective
 3829 only if agreed to by both parties.

3830 6.7. Any HMO participating in the state group insurance
 3831 program shall submit health care utilization and cost data to
 3832 the department, ~~in such form and in such manner as the~~
 3833 department requires ~~shall require~~, as a condition of
 3834 participating in the program. The department shall enter into
 3835 negotiations with its contracting HMOs to determine the nature
 3836 and scope of the data submission and the final requirements,

3837 | format, penalties associated with noncompliance, and timetables
 3838 | for submission. These determinations shall be adopted by rule.

3839 | 7.8. The department may establish and direct, with respect
 3840 | to collective bargaining issues, a comprehensive package of
 3841 | insurance benefits that may include supplemental health and life
 3842 | coverage, dental care, long-term care, vision care, and other
 3843 | benefits it determines necessary to enable state employees to
 3844 | select from among benefit options that best suit their
 3845 | individual and family needs.

3846 | a. Based upon a desired benefit package, the department
 3847 | shall issue a request for proposal or invitation to negotiate
 3848 | for health insurance providers interested in participating in
 3849 | the state group insurance program, ~~and the department shall~~
 3850 | issue a request for proposal or invitation to negotiate for
 3851 | insurance providers interested in participating in the non-
 3852 | health-related components of the state group insurance program.
 3853 | Upon receipt of all proposals, the department may enter into
 3854 | contract negotiations with insurance providers submitting bids
 3855 | or negotiate a specially designed benefit package. Insurance
 3856 | providers offering or providing supplemental coverage as of May
 3857 | 30, 1991, which qualify for pretax benefit treatment pursuant to
 3858 | s. 125 of the Internal Revenue Code of 1986, with 5,500 or more
 3859 | state employees currently enrolled may be included ~~by the~~
 3860 | ~~department~~ in the supplemental insurance benefit plan
 3861 | established by the department without participating in a request
 3862 | for proposal, submitting bids, negotiating contracts, or
 3863 | negotiating a specially designed benefit package. These
 3864 | contracts must ~~shall~~ provide state employees with the most cost-

3865 effective and comprehensive coverage available; however, ~~no~~
 3866 state or agency funds may not ~~shall~~ be contributed toward the
 3867 cost of any part of the premium of such supplemental benefit
 3868 plans. With respect to dental coverage, the division shall
 3869 include in any solicitation or contract for any state group
 3870 dental program ~~made after July 1, 2001,~~ a comprehensive
 3871 indemnity dental plan option that ~~which~~ offers enrollees a
 3872 completely unrestricted choice of dentists. If a dental plan is
 3873 endorsed, or in some manner recognized as the preferred product,
 3874 such plan must ~~shall~~ include a comprehensive indemnity dental
 3875 plan option that ~~which~~ provides enrollees with a completely
 3876 unrestricted choice of dentists.

3877 b. Pursuant to ~~the applicable provisions of~~ s. 112.951
 3878 ~~110.161,~~ and s. 125 of the Internal Revenue Code of 1986, the
 3879 department shall enroll in the pretax benefit program those
 3880 state employees who voluntarily elect coverage in any of the
 3881 supplemental insurance benefit plans as provided by sub-
 3882 subparagraph a.

3883 c. This subparagraph does not ~~Nothing herein contained~~
 3884 ~~shall be construed to~~ prohibit insurance providers from
 3885 continuing to provide or offer supplemental benefit coverage to
 3886 state employees as provided under existing agency plans.

3887 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION
 3888 ON ACTIONS TO PAY AND COLLECT PREMIUMS.—

3889 (c) During each policy or budget year, no state agency
 3890 shall contribute a greater dollar amount of the premium cost for
 3891 its officers or employees for any plan option under the state
 3892 group insurance program than any other agency for similar

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3893 officers and employees, nor shall any greater dollar amount of
 3894 premium cost be made for employees in one state collective
 3895 bargaining unit than for those in any other state collective
 3896 bargaining unit. Nothing in this section prohibits the use of
 3897 different levels of state contributions for positions exempt
 3898 from Civil ~~career~~ Service.

3899 Section 79. Section 110.12301, Florida Statutes is
 3900 transferred and renumbered as section 112.943, Florida Statutes,
 3901 and subsection (1) of that section is amended to read:

3902 112.943 ~~110.12301~~ Competitive procurement of postpayment
 3903 claims review services.—The Division of State Group Insurance is
 3904 directed to competitively procure:

3905 (1) Postpayment claims review services for the state group
 3906 health insurance plans established pursuant to s. 112.942
 3907 ~~110.123~~. Compensation under the contract shall be paid from
 3908 amounts identified as claim overpayments that are made by or on
 3909 behalf of the health plans and that are recovered by the vendor.
 3910 The vendor may retain that portion of the amount recovered as
 3911 provided in the contract. The contract must require the vendor
 3912 to maintain all necessary documentation supporting the amounts
 3913 recovered, retained, and remitted to the division; and

3914 Section 80. Section 110.12302, Florida Statutes is
 3915 transferred and renumbered as section 112.944, Florida Statutes.

3916 Section 81. Section 110.12312, Florida Statutes, is
 3917 transferred, renumbered as section 112.945, Florida Statutes,
 3918 and amended to read:

3919 112.945 ~~110.12312~~ Open enrollment period for retirees.—On
 3920 or after July 1, 1997, the Department of Management Services

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3921 shall provide for an open enrollment period for retired state
 3922 employees who want to obtain health insurance coverage under ss.
 3923 112.942 and 112.946 ~~110.123 and 110.12315~~. The options offered
 3924 during the open enrollment period must provide the same health
 3925 insurance coverage as the coverage provided to active employees
 3926 under the same premium payment conditions in effect for covered
 3927 retirees, including eligibility for health insurance subsidy
 3928 payments under s. 112.363. A person who separates from
 3929 employment subsequent to May 1, 1988, but whose date of
 3930 retirement occurs on or after August 1, 1995, is eligible as of
 3931 the first open enrollment period occurring after July 1, 1997,
 3932 with an effective date of January 1, 1998, as long as the
 3933 retiree's enrollment remains in effect.

3934 Section 82. Section 110.12315, Florida Statutes, is
 3935 transferred and renumbered as section 112.946, Florida Statutes.

3936 Section 83. Section 110.1232, Florida Statutes, is
 3937 transferred, renumbered as section 112.947, Florida Statutes,
 3938 and amended to read:

3939 112.947 ~~110.1232~~ Health insurance coverage for persons
 3940 retired under state-administered retirement systems before
 3941 January 1, 1976, and for spouses.—Notwithstanding any provisions
 3942 of law to the contrary, the Department of Management Services
 3943 shall provide health insurance coverage under the state group
 3944 insurance program for persons who retired before January 1,
 3945 1976, under any of the state-administered retirement systems and
 3946 who are not covered by social security and for the spouses and
 3947 surviving spouses of such retirees who are also not covered by
 3948 social security. Such health insurance coverage shall provide

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3949 the same benefits as provided to other retirees who are entitled
 3950 to participate under s. 112.942 ~~110.123~~. The claims experience
 3951 of this group shall be commingled with the claims experience of
 3952 other members covered under s. 112.942 ~~110.123~~.

3953 Section 84. Section 110.1234, Florida Statutes, is
 3954 transferred and renumbered as section 112.948, Florida Statutes.

3955 Section 85. Section 110.1238, Florida Statutes, is
 3956 transferred and renumbered as section 112.949, Florida Statutes.

3957 Section 86. Section 110.1239, Florida Statutes, is
 3958 transferred and renumbered as section 112.950, Florida Statutes.

3959 Section 87. Section 110.161, Florida Statutes, is
 3960 transferred and renumbered as section 112.951, Florida Statutes,
 3961 and paragraph (a) of subsection (6) of that section is amended
 3962 to read:

3963 112.951 ~~110.161~~ State employees; pretax benefits program.—

3964 (6) The Department of Management Services is authorized to
 3965 administer the pretax benefits program established for all
 3966 employees so that employees may receive benefits that are not
 3967 includable in gross income under the Internal Revenue Code of
 3968 1986. The pretax benefits program:

3969 (a) Shall allow employee contributions to premiums for the
 3970 state group insurance program administered under s. 112.942
 3971 ~~110.123~~ to be paid on a pretax basis unless an employee elects
 3972 not to participate.

3973 Section 88. Section 112.952, Florida Statutes, is created
 3974 to read:

3975 112.952 Penalties.—

3976 (1) Any person who willfully violates any provision of

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3977 this part or any rules adopted pursuant to this part commits a
 3978 misdemeanor of the second degree, punishable as provided in s.
 3979 775.082 or s. 775.083.

3980 (2) Notwithstanding s. 112.011, any person who is
 3981 convicted of a misdemeanor under this part is ineligible for
 3982 appointment to or employment in a state position for 5 years
 3983 and, if an employee of the state, must forfeit his or her
 3984 position.

3985 (3) Imposition of the penalties provided in this section
 3986 may not be in lieu of any action that may be taken or penalties
 3987 that may be imposed pursuant to part III of this chapter.

3988 Section 89. The Division of Statutory Revision is
 3989 requested to renumber part IV of chapter 110, Florida Statutes,
 3990 as part XI of chapter 112, Florida Statutes, consisting of ss.
 3991 112.961-112.965, Florida Statutes, and to rename that part as
 3992 "State Volunteer Services."

3993 Section 90. Section 110.501, Florida Statutes, is
 3994 transferred, renumbered as section 112.961, Florida Statutes,
 3995 reordered, and amended to read:

3996 112.961 ~~110.501~~ Definitions.—As used in this part, the
 3997 term ~~act~~:

3998 (3)~~(1)~~ "Volunteer" means any person who, of his or her own
 3999 free will, provides goods or services, or conveys an interest in
 4000 or otherwise consents to the use of real property pursuant to
 4001 chapter 260, to any ~~state department or~~ agency, or nonprofit
 4002 organization, with no monetary or material compensation. A
 4003 person registered and serving in Older American Volunteer
 4004 Programs authorized by the Domestic Volunteer Service Act of

4005 1973, as amended (Pub. L. No. 93-113), shall also be defined as
 4006 a volunteer and shall incur no civil liability as provided by s.
 4007 768.1355. A volunteer shall be eligible for payment of volunteer
 4008 benefits as specified in Pub. L. No. 93-113, this section, and
 4009 s. 430.204.

4010 ~~(2) "Regular service volunteer" means any person engaged~~
 4011 ~~in specific voluntary service activities on an ongoing or~~
 4012 ~~continuous basis.~~

4013 ~~(3) "Occasional service volunteer" means any person who~~
 4014 ~~offers to provide a one-time or occasional voluntary service.~~

4015 (1) ~~(4)~~ "Material donor" means any person who provides
 4016 funds, materials, employment, or opportunities for clients of
 4017 state ~~departments or~~ agencies, without monetary or material
 4018 compensation.

4019 (2) "State agency" or "agency" means any official,
 4020 officer, commission, board, authority, council, committee, or
 4021 department of the executive branch or judicial branch of state
 4022 government as defined in chapter 216, unless otherwise exempted
 4023 by law.

4024 Section 91. Section 110.502, Florida Statutes, is
 4025 transferred, renumbered as section 112.962, Florida Statutes,
 4026 and amended to read:

4027 112.962 ~~110.502~~ Scope of act; status of volunteers.—

4028 (1) Every ~~state department or~~ state agency may, with the
 4029 approval of the agency head, through the head of the department
 4030 ~~or agency, secretary of the department, or executive director of~~
 4031 ~~the department, is authorized to~~ recruit, train, and accept,
 4032 without regard to the requirements of the Civil State Career

4033 ~~Service System as set forth in part II of this chapter, the~~
 4034 ~~services of volunteers, including regular service volunteers,~~
 4035 ~~occasional service volunteers,~~ or material donors, to assist in
 4036 programs administered by the ~~department or~~ agency.

4037 (2) Volunteers recruited, trained, or accepted by a any
 4038 ~~state department or~~ agency are shall not be subject to any
 4039 provisions of law relating to state employment, a to any
 4040 collective bargaining agreement between the state and an any
 4041 employees' association or union, or ~~to any~~ laws relating to
 4042 hours of work, rates of compensation, leave time, and employee
 4043 benefits, except those consistent with s. 112.964 ~~110.504~~.
 4044 However, all volunteers shall comply with applicable ~~department~~
 4045 ~~or~~ agency rules. Volunteers may be required by the agency to
 4046 submit to security background screenings.

4047 (3) Every state department or agency using ~~utilizing~~ the
 4048 services of volunteers is ~~hereby~~ authorized to provide ~~such~~
 4049 incidental reimbursement or benefit consistent with s. 112.964
 4050 ~~the provisions of s. 110.504~~, including transportation costs,
 4051 lodging, ~~and~~ subsistence, identification and safety apparel,
 4052 recognition, and other accommodations as the ~~department or~~
 4053 agency deems necessary to assist, recognize, reward, or
 4054 encourage volunteers in performing their functions. An No
 4055 ~~department or~~ agency may not shall expend or authorize an
 4056 expenditure greater than ~~therefor in excess of~~ the amount
 4057 provided for to the ~~department or~~ agency by appropriation in any
 4058 fiscal year.

4059 (4) Persons working with state agencies pursuant to this
 4060 part are shall be considered as unpaid independent volunteers

4061 and ~~are shall~~ not be entitled to unemployment compensation.

4062 Section 92. Section 110.503, Florida Statutes, is
 4063 transferred, renumbered as section 112.963, Florida Statutes,
 4064 and amended to read:

4065 112.963 ~~110.503~~ Responsibilities of state departments and
 4066 agencies.—Each state department or agency using ~~utilizing~~ the
 4067 services of volunteers shall take such actions as are:

4068 (1) ~~Take such actions as are~~ Necessary and appropriate to
 4069 develop meaningful opportunities for volunteers involved in
 4070 state-administered programs.

4071 (2) Necessary to ensure that volunteers are provided with
 4072 the state agency's policies and procedures applicable to their
 4073 volunteer activities. ~~Comply with the uniform rules adopted by~~
 4074 ~~the Department of Management Services governing the recruitment,~~
 4075 ~~screening, training, responsibility, use, and supervision of~~
 4076 ~~volunteers.~~

4077 (3) ~~Take such actions as are~~ Necessary to ensure that
 4078 volunteers understand their duties and responsibilities.

4079 (4) Necessary to ensure that a state employee whose
 4080 primary employment consists of duties and responsibilities
 4081 similar to those associated with volunteer activities is not
 4082 considered for volunteer work if such work would require payment
 4083 for overtime in accordance with the Fair Labor Standards Act.

4084 ~~(4) Take such actions as are necessary and appropriate to~~
 4085 ~~ensure a receptive climate for citizen volunteers.~~

4086 ~~(5) Provide for the recognition of volunteers who have~~
 4087 ~~offered continuous and outstanding service to state-administered~~
 4088 ~~programs. Each department or agency using the services of~~

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4089 ~~volunteers is authorized to incur expenditures not to exceed~~
 4090 ~~\$100 each plus applicable taxes for suitable framed~~
 4091 ~~certificates, plaques, or other tokens of recognition to honor,~~
 4092 ~~reward, or encourage volunteers for their service.~~

4093 ~~(6) Recognize prior volunteer service as partial~~
 4094 ~~fulfillment of state employment requirements for training and~~
 4095 ~~experience pursuant to rules adopted by the Department of~~
 4096 ~~Management Services.~~

4097 Section 93. Section 110.504, Florida Statutes, is
 4098 transferred, renumbered as section 112.964, Florida Statutes,
 4099 and amended to read:

4100 112.964 ~~110.504~~ Volunteer benefits.-

4101 (1) Meals may be furnished without charge to ~~regular-~~
 4102 ~~service~~ volunteers serving state agencies if departments,
 4103 ~~provided~~ the scheduled assignment extends over an established
 4104 meal period, ~~and to occasional-service volunteers at the~~
 4105 ~~discretion of the department head. An agency may not~~ No
 4106 ~~department shall~~ expend or authorize any expenditure greater
 4107 than in excess of the amount provided for by appropriation in
 4108 any fiscal year.

4109 (2) Lodging, if available, may be furnished temporarily,
 4110 in case of an agency ~~a department~~ emergency, at no charge to
 4111 ~~regular-service~~ volunteers.

4112 (3) Transportation reimbursement may be furnished to those
 4113 volunteers whose presence is determined to be necessary to the
 4114 agency ~~department~~. Volunteers may use ~~utilize~~ state vehicles in
 4115 the performance of agency-related ~~department-related~~ duties. An
 4116 agency may not ~~No department shall~~ expend or authorize an

4117 expenditure greater than ~~in excess of~~ the amount appropriated in
 4118 any fiscal year.

4119 (4) Volunteers are ~~shall be~~ covered by state liability
 4120 protection in accordance with the definition of a volunteer and
 4121 ~~the provisions of s. 768.28.~~

4122 (5) Volunteers are ~~shall be~~ covered by workers'
 4123 compensation in accordance with chapter 440.

4124 (6) Incidental recognition benefits or incidental
 4125 nonmonetary awards may be furnished to volunteers serving in
 4126 state agencies ~~departments~~ to award, recognize, or encourage
 4127 volunteers for their service. The awards may not cost more than
 4128 \$150 ~~in excess of \$100~~ each plus applicable taxes.

4129 (7) Volunteers, including volunteers receiving a stipend
 4130 as provided by the Domestic Service Volunteer Act of 1973, as
 4131 amended, ~~(Pub. L. No. 93-113),~~ are ~~shall be~~ covered by s.
 4132 768.1355, the Florida Volunteer Protection Act.

4133 Section 94. Section 112.965, Florida Statutes, is created
 4134 to read:

4135 112.965 Penalties.-

4136 (1) Any person who willfully violates any provision of
 4137 this part or any rules adopted pursuant to this part commits a
 4138 misdemeanor of the second degree, punishable as provided in s.
 4139 775.082 or s. 775.083.

4140 (2) Notwithstanding s. 112.011, any person who is
 4141 convicted of a misdemeanor under this part is ineligible for
 4142 appointment to or employment in a state position for 5 years
 4143 and, if an employee of the state, must forfeit his or her
 4144 position.

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4145 (3) Imposition of the penalties provided in this section
 4146 may not be in lieu of any action that may be taken or penalties
 4147 that may be imposed pursuant to part III of this chapter.

4148 Section 95. Sections 110.115, 110.118, 110.124, 110.129,
 4149 110.1521, 110.1522, 110.1523, 110.171, 110.2035, 110.21,
 4150 110.406, 110.603, 110.604, and 110.606, Florida Statutes, are
 4151 repealed.

4152 Section 96. Paragraph (b) of subsection (1) of section
 4153 11.13, Florida Statutes, is amended to read:

4154 11.13 Compensation of members.—

4155 (1)

4156 (b) On Effective July 1, 1986, and each July 1 of each
 4157 year thereafter, the annual salaries of members of the Senate
 4158 and House of Representatives shall be adjusted by the average
 4159 percentage increase in the salaries of civil state career
 4160 service employees for the fiscal year just concluded. The
 4161 Appropriations Committee of each house shall certify to the
 4162 Office of Legislative Services the average percentage increase
 4163 in the salaries of civil state career service employees before
 4164 July 1 of each year. The Office of Legislative Services shall,
 4165 as of July 1 of each year, determine the adjusted annual
 4166 salaries as provided in this paragraph herein.

4167 Section 97. Paragraph (c) of subsection (1) of section
 4168 20.055, Florida Statutes, is amended to read:

4169 20.055 Agency inspectors general.—

4170 (1) For the purposes of this section:

4171 (c) "Individuals substantially affected" means natural
 4172 persons who have established a real and sufficiently immediate

4173 injury in fact due to the findings, conclusions, or
 4174 recommendations of a final report of a state agency inspector
 4175 general, who are the subject of the audit or investigation, and
 4176 who do not have or are not currently afforded an existing right
 4177 to an independent review process. The term does not include:

4178 1. Employees of the state, including civil ~~career~~ service,
 4179 probationary, other personal service, selected exempt service,
 4180 and senior management service employees, ~~are not covered by this~~
 4181 ~~definition. This definition also does not cover~~

4182 2. Former employees of the state if the final report of
 4183 the state agency inspector general relates to matters arising
 4184 during a former employee's term of state employment. ~~This~~
 4185 ~~definition does not apply to~~

4186 3. Persons who are the subject of audits or investigations
 4187 conducted pursuant to ss. 112.3187-112.31895 or s. 409.913 or
 4188 which are otherwise confidential and exempt under s. 119.07.

4189 Section 98. Subsection (6) of section 20.21, Florida
 4190 Statutes, is amended to read:

4191 20.21 Department of Revenue.—There is created a Department
 4192 of Revenue.

4193 (6) Notwithstanding s. 112.942 ~~the provisions of s.~~
 4194 ~~110.123~~, relating to the state group insurance program, the
 4195 department may pay, or participate in the payment of, premiums
 4196 for health, accident, and life insurance for its full-time out-
 4197 of-state employees, pursuant to such rules as it may adopt,
 4198 which ~~and such~~ payments are ~~shall be~~ in addition to the
 4199 employees' regular salaries ~~of such full-time out-of-state~~
 4200 ~~employees.~~

4201 Section 99. Paragraph (e) of subsection (1) and subsection
 4202 (6) of section 20.23, Florida Statutes, are amended to read:

4203 20.23 Department of Transportation.—There is created a
 4204 Department of Transportation which shall be a decentralized
 4205 agency.

4206 (1)

4207 (e) The ~~Any~~ secretary ~~appointed after July 5, 1989,~~ and
 4208 ~~the~~ assistant secretaries are ~~shall be~~ exempt from part IV ~~the~~
 4209 ~~provisions of part III~~ of chapter 110 and shall receive
 4210 compensation commensurate with their qualifications and
 4211 competitive with compensation for comparable responsibility in
 4212 the private sector.

4213 (6) Notwithstanding ~~the provisions of~~ s. 110.205, the
 4214 Department of Management Services may ~~is authorized to~~ exempt
 4215 positions within the Department of Transportation that ~~which~~ are
 4216 comparable to positions within the Senior Management Service
 4217 pursuant to s. 110.205(2)(g) ~~110.205(2)(j)~~ or positions that
 4218 ~~which~~ are comparable to positions in the Selected Exempt Service
 4219 under s. 110.205(2)(i) ~~110.205(2)(m)~~.

4220 Section 100. Subsection (2) of section 20.255, Florida
 4221 Statutes, is amended to read:

4222 20.255 Department of Environmental Protection.—There is
 4223 created a Department of Environmental Protection.

4224 (2) (a) There shall be three deputy secretaries who are to
 4225 be appointed by and shall serve at the pleasure of the
 4226 secretary. The secretary may assign any deputy secretary the
 4227 responsibility to supervise, coordinate, and formulate policy
 4228 for any division, office, or district. The following special

4229 offices are established and headed by managers, each of whom is
 4230 to be appointed by and serve at the pleasure of the secretary:

- 4231 1. Office of Chief of Staff;
- 4232 2. Office of General Counsel;
- 4233 3. Office of Inspector General;
- 4234 4. Office of External Affairs;
- 4235 5. Office of Legislative Affairs;
- 4236 6. Office of Intergovernmental Programs; and
- 4237 7. Office of Greenways and Trails.

4238 (b) There shall be six administrative districts involved
 4239 in regulatory matters of waste management, water resource
 4240 management, wetlands, and air resources, which shall be headed
 4241 by managers, each of whom is to be appointed by and serve at the
 4242 pleasure of the secretary. Divisions of the department may have
 4243 one assistant or two deputy division directors, as required to
 4244 facilitate effective operation.

4245
 4246 The managers of all divisions and offices specifically named in
 4247 this section and the directors of the six administrative
 4248 districts are exempt from part II of chapter 110 and are
 4249 included in the Senior Management Service in accordance with s.
 4250 110.205(2)(g) ~~110.205(2)(j)~~.

4251 Section 101. Paragraph (d) of subsection (19) of section
 4252 24.105, Florida Statutes, is amended to read:

4253 24.105 Powers and duties of department.—The department
 4254 shall:

4255 (19) Employ division directors and other staff as may be
 4256 necessary to carry out the provisions of this act; however:

4257 (d) The department shall establish and maintain a
 4258 personnel program for its employees, including a personnel
 4259 classification and pay plan that ~~which~~ may provide ~~any or all of~~
 4260 the benefits provided in the Senior Management Service or
 4261 Selected Exempt Service. Each officer or employee of the
 4262 department is ~~shall be~~ a member of the Florida Retirement
 4263 System. The retirement class of each officer or employee is
 4264 ~~shall be~~ the same as other persons performing comparable
 4265 functions for other agencies. Employees of the department shall
 4266 serve at the pleasure of the secretary and are ~~shall be~~ subject
 4267 to suspension, dismissal, reduction in pay, demotion, transfer,
 4268 or other personnel action at the discretion of the secretary.
 4269 Such personnel actions are exempt from ~~the provisions of~~ chapter
 4270 120. All employees of the department are exempt from the Civil
 4271 ~~Career Service System~~ provided in chapter 110 and,
 4272 notwithstanding ~~the provisions of~~ s. 110.205(3) ~~110.205(5)~~, are
 4273 not included in ~~either~~ the Senior Management Service or the
 4274 Selected Exempt Service. However, all employees of the
 4275 department are subject to all standards of conduct adopted by
 4276 rule for civil ~~career~~ service and senior management employees
 4277 pursuant to chapter 110. In the event of a conflict between
 4278 standards of conduct applicable to employees of the Department
 4279 of the Lottery, the more restrictive standard ~~applies shall~~
 4280 ~~apply~~. Interpretations as to the more restrictive standard may
 4281 be provided by the Commission on Ethics upon request of an
 4282 advisory opinion pursuant to s. 112.322(3)(a), and for purposes
 4283 of this subsection, the opinion shall be considered final
 4284 action.

4285 Section 102. Paragraph (d) of subsection (4) of section
 4286 24.122, Florida Statutes, is amended to read:

4287 24.122 Exemption from taxation; state preemption;
 4288 inapplicability of other laws.—

4289 (4) Any state or local law providing any penalty,
 4290 disability, restriction, or prohibition for the possession,
 4291 manufacture, transportation, distribution, advertising, or sale
 4292 of any lottery ticket, including chapter 849, shall not apply to
 4293 the tickets of the state lottery operated pursuant to this act;
 4294 nor shall any such law apply to the possession of a ticket
 4295 issued by any other government-operated lottery. In addition,
 4296 activities of the department under this act are exempt from the
 4297 provisions of:

4298 (d) Section 112.907 ~~110.131~~, relating to other personal
 4299 services.

4300 Section 103. Paragraph (b) of subsection (1) of section
 4301 30.071, Florida Statutes, is amended to read:

4302 30.071 Applicability and scope of act.—

4303 (1) This act applies to all deputy sheriffs, with the
 4304 following exceptions:

4305 (b) Deputy sheriffs in a county that, by special act of
 4306 the Legislature, local charter, ordinance, or otherwise, has
 4307 established a civil ~~or career~~ service system that ~~which~~ grants
 4308 collective bargaining rights for deputy sheriffs, including, but
 4309 not limited to, deputy sheriffs in the following counties:
 4310 Broward, Miami-Dade, Duval, Escambia, and Volusia.

4311 Section 104. Subsection (4) of section 43.16, Florida
 4312 Statutes, is amended to read:

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4313 43.16 Justice Administrative Commission; membership,
4314 powers and duties.—

4315 (4) (a) The Justice Administrative Commission shall employ
4316 an executive director and fix his or her salary. The executive
4317 director shall employ any necessary personnel for the efficient
4318 performance of the commission according to a classification and
4319 pay plan annually approved by the commission.

4320 (b) Pursuant to s. 110.205(2)(r), all employees of ~~or~~
4321 ~~within~~ the commission are exempt from the Civil Career Service
4322 ~~System provided in chapter 110~~ and, notwithstanding s.
4323 110.205(3) ~~110.205(5)~~, are not included in the Senior Management
4324 Service or the Selected Exempt Service. The commission shall
4325 annually approve a classification plan and salary and benefits
4326 plan.

4327 (c) Employees in permanent positions must be offered
4328 benefits comparable to those offered under the Civil Career
4329 Service ~~System~~.

4330 (d) The commission may offer benefits greater than ~~in~~
4331 ~~excess of~~ those offered under the Civil Career Service ~~System~~
4332 only to employees who are appointed to positions designated as
4333 having managerial or policymaking duties or positions requiring
4334 membership in The Florida Bar.

4335 (e) By January 15 ~~15th~~ of each year, the commission shall
4336 submit to the Executive Office of the Governor, the President of
4337 the Senate, and the Speaker of the House of Representatives a
4338 listing of all positions receiving benefits greater than those
4339 ~~benefits~~ offered under the Civil Career Service ~~System~~. Any
4340 change in the positions that are offered greater benefits or any

4341 change in the level of benefits is subject to the notice and
 4342 objection procedures of s. 216.177.

4343 Section 105. Subsection (4) of section 104.31, Florida
 4344 Statutes, is amended to read:

4345 104.31 Political activities of state, county, and
 4346 municipal officers and employees.—

4347 (4) Nothing contained in this section or in any county or
 4348 municipal charter shall be deemed to prohibit any public
 4349 employee from expressing his or her opinions on any candidate or
 4350 issue or from participating in any political campaign during the
 4351 employee's off-duty hours, so long as such activities are not in
 4352 conflict with ~~the provisions of~~ subsection (1) or s. 110.1075
 4353 ~~110.233~~.

4354 Section 106. Subsection (4) of section 106.24, Florida
 4355 Statutes, is amended to read:

4356 106.24 Florida Elections Commission; membership; powers;
 4357 duties.—

4358 (4) The commission shall appoint an executive director,
 4359 who shall serve under the direction, supervision, and control of
 4360 the commission. The executive director, with the consent of the
 4361 commission, shall employ such staff as are necessary to
 4362 adequately perform the functions of the commission, within
 4363 budgetary limitations. All employees, except the executive
 4364 director and attorneys, are subject to part II of chapter 110.
 4365 The executive director shall serve at the pleasure of the
 4366 commission and is ~~be~~ subject to part IV ~~III~~ of chapter 110,
 4367 except that the commission shall have complete authority for
 4368 setting the executive director's salary. Attorneys employed by

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4369 the commission are ~~shall be~~ subject to part III ~~V~~ of chapter
4370 110.

4371 Section 107. Subsection (4) of section 112.044, Florida
4372 Statutes, is amended to read:

4373 112.044 Public employers, employment agencies, labor
4374 organizations; discrimination based on age prohibited;
4375 exceptions; remedy.—

4376 (4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the
4377 state ~~who is~~ within the Civil Career Service System established
4378 by chapter 110 ~~and~~ who is aggrieved by a violation of this act
4379 may appeal to the Public Employees Relations Commission under
4380 the conditions and following the procedures prescribed in part
4381 II of chapter 447. Any person other than an employee ~~who is~~
4382 within the Civil Career Service System ~~established by chapter~~
4383 ~~110~~, or any person employed by the Public Employees Relations
4384 Commission, who is aggrieved by a violation of this act may
4385 bring a civil action ~~in any court of competent jurisdiction~~ for
4386 such legal or equitable relief as will effectuate the purposes
4387 of this act.

4388 Section 108. Section 112.0805, Florida Statutes, is
4389 amended to read:

4390 112.0805 Employer notice of insurance eligibility to
4391 employees who retire.—~~An~~ Any employer who provides insurance
4392 coverage under s. 112.942 ~~110.123~~ or s. 112.0801 shall notify
4393 those employees who retire of their eligibility to participate
4394 in ~~either~~ the same group insurance plan or self-insurance plan
4395 as provided in ss. 112.942 ~~110.123~~ and 112.0801~~7~~ or the
4396 insurance coverage ~~as~~ provided by this law.

4397 Section 109. Paragraph (a) of subsection (9) of section
 4398 112.313, Florida Statutes, is amended to read:

4399 112.313 Standards of conduct for public officers,
 4400 employees of agencies, and local government attorneys.—

4401 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
 4402 LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

4403 (a)1. It is the intent of the Legislature to implement by
 4404 statute the provisions of s. 8(e), Art. II of the State
 4405 Constitution relating to legislators, statewide elected
 4406 officers, appointed state officers, and designated public
 4407 employees.

4408 2. As used in this paragraph:

4409 a. "Employee" means:

4410 (I) Any person employed in the executive or legislative
 4411 branch of government holding a position in the Senior Management
 4412 Service as defined in s. 110.402 or any person holding a
 4413 position in the Selected Exempt Service as defined in s.
 4414 110.3021 ~~110.602~~ or any person having authority over policy or
 4415 procurement employed by the Department of the Lottery.

4416 (II) The Auditor General, the director of the Office of
 4417 Program Policy Analysis and Government Accountability, the
 4418 Sergeant at Arms and Secretary of the Senate, and the Sergeant
 4419 at Arms and Clerk of the House of Representatives.

4420 (III) The executive director and deputy executive director
 4421 of the Commission on Ethics.

4422 (IV) An executive director, staff director, or deputy
 4423 staff director of each joint committee, standing committee, or
 4424 select committee of the Legislature; an executive director,

4425 staff director, executive assistant, analyst, or attorney of the
 4426 Office of the President of the Senate, the Office of the Speaker
 4427 of the House of Representatives, the Senate Majority Party
 4428 Office, Senate Minority Party Office, House Majority Party
 4429 Office, or House Minority Party Office; or any person, hired on
 4430 a contractual basis, having the power normally conferred upon
 4431 such persons, by whatever title.

4432 (V) The Chancellor and Vice Chancellors of the State
 4433 University System; the general counsel to the Board of Governors
 4434 of the State University System; and the president, provost, vice
 4435 presidents, and deans of each state university.

4436 (VI) Any person, including an other-personal-services
 4437 employee, having the power normally conferred upon the positions
 4438 referenced in this sub-subparagraph.

4439 b. "Appointed state officer" means any member of an
 4440 appointive board, commission, committee, council, or authority
 4441 of the executive or legislative branch of state government whose
 4442 powers, jurisdiction, and authority are not solely advisory and
 4443 include the final determination or adjudication of any personal
 4444 or property rights, duties, or obligations, other than those
 4445 relative to its internal operations.

4446 c. "State agency" means an entity of the legislative,
 4447 executive, or judicial branch of state government over which the
 4448 Legislature exercises plenary budgetary and statutory control.

4449 3. A ~~No~~ member of the Legislature, appointed state
 4450 officer, or statewide elected officer may not ~~shall~~ personally
 4451 represent another person or entity for compensation before the
 4452 government body or agency of which the individual was an officer

4453 or member for ~~a period of~~ 2 years following vacation of office.
 4454 A ~~No~~ member of the Legislature may not ~~shall~~ personally
 4455 represent another person or entity for compensation during his
 4456 or her term of office before any state agency other than
 4457 judicial tribunals or in settlement negotiations after the
 4458 filing of a lawsuit.

4459 4. An agency employee, including an agency employee who
 4460 was employed on July 1, 2001, in a civil ~~Career~~ service ~~System~~
 4461 position that was transferred to the Selected Exempt Service
 4462 ~~System~~ under chapter 2001-43, Laws of Florida, may not
 4463 personally represent another person or entity for compensation
 4464 before the agency with which he or she was employed for ~~a period~~
 4465 ~~of~~ 2 years following vacation of position, unless employed by
 4466 another agency of state government.

4467 5. Any person violating this paragraph is ~~shall be~~ subject
 4468 to the penalties provided in s. 112.317 and a civil penalty ~~of~~
 4469 ~~an amount~~ equal to the compensation that ~~which~~ the person
 4470 receives for the prohibited conduct.

4471 6. This paragraph is not applicable to:

4472 a. A person employed by the Legislature or other agency
 4473 before ~~prior to~~ July 1, 1989;

4474 b. A person who was employed by the Legislature or other
 4475 agency on July 1, 1989, whether or not the person was a defined
 4476 employee on July 1, 1989;

4477 c. A person who was a defined employee of the State
 4478 University System or the Public Service Commission who held such
 4479 employment on December 31, 1994;

4480 d. A person who has reached normal retirement age as

4481 defined in s. 121.021(29), and who has retired under ~~the~~
 4482 ~~provisions of~~ chapter 121 by July 1, 1991; or

4483 e. Any appointed state officer whose term of office began
 4484 before January 1, 1995, unless reappointed to that office on or
 4485 after January 1, 1995.

4486 Section 110. Paragraph (b) of subsection (1) of section
 4487 112.3145, Florida Statutes, is amended to read:

4488 112.3145 Disclosure of financial interests and clients
 4489 represented before agencies.—

4490 (1) For purposes of this section, unless the context
 4491 otherwise requires, the term:

4492 (b) "Specified state employee" means:

4493 1. Public counsel created by chapter 350, an assistant
 4494 state attorney, an assistant public defender, a full-time state
 4495 employee who serves as counsel or assistant counsel to any state
 4496 agency, the Deputy Chief Judge of Compensation Claims, a judge
 4497 of compensation claims, an administrative law judge, or a
 4498 hearing officer.

4499 2. Any person employed in the office of the Governor or in
 4500 the office of any member of the Cabinet if that person is exempt
 4501 from the Civil Career Service System, except persons employed in
 4502 clerical, secretarial, or similar positions.

4503 3. The State Surgeon General or each appointed secretary,
 4504 assistant secretary, deputy secretary, executive director,
 4505 assistant executive director, or deputy executive director of
 4506 each state department, commission, board, or council; unless
 4507 otherwise provided, the division director, assistant division
 4508 director, deputy director, bureau chief, and assistant bureau

4509 chief of any state department or division; or any person having
 4510 the power normally conferred upon such persons, by whatever
 4511 title.

4512 4. The superintendent or institute director of a state
 4513 mental health institute established for training and research in
 4514 the mental health field or the warden or director of any major
 4515 state institution or facility established for corrections,
 4516 training, treatment, or rehabilitation.

4517 5. Business managers, purchasing agents having the power
 4518 to make any purchase exceeding the threshold amount provided for
 4519 in s. 287.017 for CATEGORY ONE, finance and accounting
 4520 directors, personnel officers, or grants coordinators for any
 4521 state agency.

4522 6. Any person, other than a legislative assistant exempted
 4523 by the presiding officer of the house that employs ~~by which~~ the
 4524 legislative assistant ~~is employed~~, who is employed in the
 4525 legislative branch of government, except persons employed in
 4526 maintenance, clerical, secretarial, or similar positions.

4527 7. Each employee of the Commission on Ethics.

4528 Section 111. Paragraph (a) of subsection (2) of section
 4529 112.363, Florida Statutes, is amended to read:

4530 112.363 Retiree health insurance subsidy.—

4531 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

4532 (a) A person who is retired under a state-administered
 4533 retirement system, or a beneficiary who is a spouse or financial
 4534 dependent entitled to receive benefits under a state-
 4535 administered retirement system, is eligible for health insurance
 4536 subsidy payments ~~provided~~ under this section; except that

4537 pension recipients under ss. 121.40, 238.07(18)(a), and 250.22,
 4538 recipients of health insurance coverage under s. 112.947
 4539 ~~110.1232~~, or recipients of any other special pension or relief
 4540 act are ~~shall~~ not be eligible for such payments.

4541 Section 112. Subsections (11) and (38) of section 121.021,
 4542 Florida Statutes, are amended to read:

4543 121.021 Definitions.—The following words and phrases as
 4544 used in this chapter have the respective meanings set forth
 4545 unless a different meaning is plainly required by the context:

4546 (11) "Officer or employee" means any person receiving
 4547 salary payments for work performed in a regularly established
 4548 position and, if employed by a municipality, a metropolitan
 4549 planning organization, or a special district, employed in a
 4550 covered group. The term does not apply to state employees
 4551 covered by a leasing agreement under s. 112.922 ~~110.191~~, other
 4552 public employees covered by a leasing agreement, or a coemployer
 4553 relationship.

4554 (38) "Continuous service" means creditable service as a
 4555 member, beginning with the first day of employment with an
 4556 employer covered under a state-administered retirement system
 4557 consolidated herein and continuing for as long as the member
 4558 remains in an employer-employee relationship with the an
 4559 employer ~~covered under this chapter~~. An absence of 1 calendar
 4560 month or more from an employer's payroll is ~~shall be~~ considered
 4561 a break in continuous service, except for periods of absence
 4562 during which an employer-employee relationship continues to
 4563 exist and such period of absence is creditable under this
 4564 chapter or under one of the existing systems consolidated

4565 herein. However, a law enforcement officer as defined in s.
 4566 121.0515(3)(a) who was a member of a state-administered
 4567 retirement system under chapter 122 or chapter 321 and who
 4568 resigned and was subsequently reemployed in a law enforcement
 4569 position within 12 calendar months after ~~of~~ such resignation by
 4570 an employer under a ~~such~~ state-administered retirement system is
 4571 ~~shall be~~ deemed not to have ~~not~~ experienced a break in service.
 4572 Further, with respect to a state-employed law enforcement
 4573 officer who meets the criteria specified in s. 121.0515(3)(a),
 4574 if the absence from the employer's payroll is the result of a
 4575 "layoff" as defined in s. 110.1054 ~~110.107~~ or a resignation to
 4576 run for an elected office that meets the criteria specified in
 4577 s. 121.0515(3)(a), no break in continuous service shall be
 4578 deemed to have occurred if the member is reemployed as a state
 4579 law enforcement officer or is elected to an office that ~~which~~
 4580 meets the criteria specified in s. 121.0515(3)(a) within 12
 4581 calendar months after the date of the layoff or resignation,
 4582 notwithstanding the fact that such period of layoff or
 4583 resignation is not creditable service under this chapter. A
 4584 withdrawal of contributions constitutes ~~will constitute~~ a break
 4585 in service. Continuous service also includes past service
 4586 purchased under this chapter if, ~~provided such~~ service is
 4587 continuous within ~~this definition and~~ the rules established by
 4588 the administrator. The administrator may establish
 4589 administrative rules and procedures for applying this definition
 4590 to creditable service authorized under this chapter. Any
 4591 correctional officer, as defined in s. 943.10, whose
 4592 participation in the state-administered retirement system is

4593 terminated due to the transfer of a county detention facility
 4594 through a contractual agreement with a private entity pursuant
 4595 to s. 951.062 is, ~~shall be~~ deemed an employee with continuous
 4596 service in the Special Risk Class if, ~~provided~~ return to
 4597 employment with the former employer takes place within 3 years
 4598 due to contract termination or the officer is employed by a
 4599 covered employer in a special risk position within 1 year after
 4600 his or her initial termination of employment by such transfer of
 4601 its detention facilities to the private entity.

4602 Section 113. Paragraph (f) of subsection (2) of section
 4603 121.051, Florida Statutes, is amended to read:

4604 121.051 Participation in the system.—

4605 (2) OPTIONAL PARTICIPATION.—

4606 (f)1. If an employer that participates in the Florida
 4607 Retirement System undertakes the transfer, merger, or
 4608 consolidation of governmental services or assumes the functions
 4609 and activities of an employing governmental entity that was not
 4610 an employer under the system, the employer must notify the
 4611 department at least 60 days before such action and provide
 4612 documentation as required by the department. Such ~~The~~ transfer,
 4613 merger, ~~or consolidation, of governmental services~~ or assumption
 4614 ~~of governmental functions and activities~~ must occur between
 4615 public employers. The current or former employer may pay the
 4616 employees' past service cost, unless prohibited under this
 4617 chapter. This subparagraph does not apply to the transfer,
 4618 merger, or consolidation of governmental services or assumption
 4619 of functions and activities of a public entity under a leasing
 4620 agreement having a coemployer relationship. Employers and

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4621 employees of a public governmental employer whose service is
 4622 covered by a leasing agreement under s. 112.922 ~~110.191~~, any
 4623 other leasing agreement, or a coemployer relationship may not
 4624 ~~are not eligible to~~ participate in the Florida Retirement
 4625 System.

4626 2. If the agency to which a member's employing unit is
 4627 transferred, merged, or consolidated does not participate in the
 4628 Florida Retirement System, a member may elect in writing to
 4629 remain in the ~~Florida Retirement~~ system or to transfer to the
 4630 local retirement system operated by the agency. If the agency
 4631 does not participate in a local retirement system, the member
 4632 shall continue membership in the Florida Retirement System. In
 4633 either case, membership continues for as long as the member is
 4634 employed by the agency to which his or her unit was transferred,
 4635 merged, or consolidated.

4636 Section 114. Paragraph (a) of subsection (1) of section
 4637 121.055, Florida Statutes, is amended to read:

4638 121.055 Senior Management Service Class.—There is hereby
 4639 established a separate class of membership within the Florida
 4640 Retirement System to be known as the "Senior Management Service
 4641 Class," which shall become effective February 1, 1987.

4642 (1)(a) Participation in the Senior Management Service
 4643 Class is ~~shall be~~ limited to and compulsory for any member of
 4644 the Florida Retirement System who holds a position in the Senior
 4645 Management Service ~~of the State of Florida~~, established under ~~by~~
 4646 part IV ~~III~~ of chapter 110, unless such member elects, within
 4647 the time specified herein, to participate in the Senior
 4648 Management Service Optional Annuity Program as established in

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4649 subsection (6).

4650 Section 115. Paragraph (a) of subsection (2) of section
4651 121.35, Florida Statutes, is amended to read:

4652 121.35 Optional retirement program for the State
4653 University System.—

4654 (2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

4655 (a) Participation in the optional retirement program is
4656 ~~provided by this section shall be~~ limited to persons who are
4657 otherwise eligible for membership or renewed membership in the
4658 Florida Retirement System and who are employed in one of the
4659 following State University System positions:

4660 1. Positions classified as instructional and research
4661 faculty which are exempt from the Civil ~~career~~ Service under ~~the~~
4662 ~~provisions of~~ s. 110.205(2)(d).

4663 2. Positions classified as administrative and professional
4664 which are exempt from the Civil ~~career~~ Service under ~~the~~
4665 ~~provisions of~~ s. 110.205(2)(d).

4666 3. The Chancellor and the university presidents.

4667 Section 116. Section 145.19, Florida Statutes, is amended
4668 to read:

4669 145.19 Annual percentage increases based on increase for
4670 civil ~~state career~~ service employees; limitation.—

4671 (1) As used in this section, the term:

4672 (a) "Annual factor" means 1 plus the lesser of:

4673 1. The average percentage increase in the salaries of
4674 civil ~~state career~~ service employees for the current fiscal year
4675 as determined by the Department of Management Services or as
4676 provided in the General Appropriations Act; or

4677 2. Seven percent.

4678 (b) "Cumulative annual factor" means the product of all
 4679 annual factors certified under this act before ~~prior to~~ the
 4680 fiscal year for which salaries are being calculated.

4681 (c) "Initial factor" means a factor of 1.292, which is a
 4682 product, rounded to the nearest thousandth, of an earlier cost-
 4683 of-living increase factor authorized by chapter 73-173, Laws of
 4684 Florida, and intended by the Legislature to be preserved in
 4685 adjustments to salaries made before the ~~prior to~~ enactment of
 4686 chapter 76-80, Laws of Florida, multiplied by the annual
 4687 increase factor authorized by chapter 79-327, Laws of Florida.

4688 (2) Each fiscal year, the salaries of all officials listed
 4689 in this chapter, s. 1001.395, and s. 1001.47 shall be adjusted.
 4690 The adjusted salary rate is ~~shall be~~ the product, rounded to the
 4691 nearest dollar, of the salary rate granted by the appropriate
 4692 section of this chapter, s. 1001.395, or s. 1001.47 multiplied
 4693 first by the initial factor, then by the cumulative annual
 4694 factor, and finally by the annual factor. The Department of
 4695 Management Services shall certify the annual factor and the
 4696 cumulative annual factors. Any special qualification salary
 4697 received under this chapter, s. 1001.47, or the annual
 4698 performance salary incentive available to elected
 4699 superintendents under s. 1001.47 shall be added to the ~~such~~
 4700 adjusted salary rate. The special qualification salary is ~~shall~~
 4701 ~~be \$2,000, but shall not exceed \$2,000.~~

4702 Section 117. Subsection (2) of section 216.011, Florida
 4703 Statutes, is amended to read:

4704 216.011 Definitions.—

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4705 (2) For purposes of this chapter, terms related to the
 4706 State Personnel System are ~~personnel affairs of the state shall~~
 4707 ~~be~~ defined as set forth in s. 110.1054 ~~110.107~~.

4708 Section 118. Paragraph (b) of subsection (10) of section
 4709 216.181, Florida Statutes, is amended to read:

4710 216.181 Approved budgets for operations and fixed capital
 4711 outlay.—

4712 (10)

4713 (b) Lump-sum salary bonuses may be provided only if
 4714 specifically appropriated or provided pursuant to ~~s. 110.1245~~ ~~or~~
 4715 s. 216.1815.

4716 Section 119. Subsection (2) of section 260.0125, Florida
 4717 Statutes, is amended to read:

4718 260.0125 Limitation on liability of private landowners
 4719 whose property is designated as part of the statewide system of
 4720 greenways and trails.—

4721 (2) A ~~Any~~ private landowner who consents to designation of
 4722 his or her land as part of the statewide system of greenways and
 4723 trails pursuant to s. 260.016(2)(d) without compensation is
 4724 ~~shall be~~ considered a volunteer, as defined in s. 112.961
 4725 ~~110.501~~, and is ~~shall be~~ covered by state liability protection
 4726 pursuant to s. 768.28, ~~including s. 768.28(9)~~.

4727 Section 120. Section 287.175, Florida Statutes, is amended
 4728 to read:

4729 287.175 Penalties.—A violation of this part or a rule
 4730 adopted hereunder, pursuant to applicable constitutional and
 4731 statutory procedures, constitutes misuse of public position as
 4732 defined in s. 112.313(6), and is punishable as provided in s.

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4733 112.317. The Chief Financial Officer shall report incidents of
 4734 suspected misuse to the Commission on Ethics, and the commission
 4735 shall investigate possible violations of this part or rules
 4736 adopted hereunder when reported by the Chief Financial Officer,
 4737 notwithstanding ~~the provisions of~~ s. 112.324. Any violation of
 4738 this part or a rule is adopted hereunder shall be presumed to
 4739 have been committed with wrongful intent, but such presumption
 4740 is rebuttable. ~~Nothing in~~ This section is not intended to deny
 4741 rights provided to civil ~~career~~ service employees by s. 110.227.

4742 Section 121. Paragraph (a) of subsection (4) of section
 4743 295.07, Florida Statutes, is amended to read:

4744 295.07 Preference in appointment and retention.—

4745 (4) The following positions are exempt from this section:

4746 (a) Those positions that are exempt from the Civil state
 4747 ~~Career Service System~~ under s. 110.205. ~~(2)~~ However, all
 4748 positions under the University Support Personnel System of the
 4749 State University System as well as all civil ~~Career~~ service
 4750 ~~System~~ positions under the Florida Community College System and
 4751 the School for the Deaf and the Blind, or the equivalent of such
 4752 positions at state universities, community colleges, or the
 4753 School for the Deaf and the Blind, are included.

4754 Section 122. Paragraph (a) of subsection (1) of section
 4755 295.09, Florida Statutes, is amended to read:

4756 295.09 Reinstatement or reemployment; promotion
 4757 preference.—

4758 (1)(a) If ~~When~~ an employee of the state or any of its
 4759 political subdivisions employed in a position subject or not
 4760 subject to a civil ~~career~~ service ~~system~~ or other merit-type

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4761 system, with the exception of those positions that ~~which~~ are
 4762 exempt pursuant to s. 295.07(4), has served in the Armed Forces
 4763 of the United States and is discharged or separated ~~therefrom~~
 4764 with an honorable discharge, the state or its political
 4765 subdivision shall reemploy or reinstate such person to the same
 4766 position that he or she held before ~~prior to~~ such service in the
 4767 armed forces, or to an equivalent position, if ~~provided~~ such
 4768 person returns to the position within 1 year after ~~of~~ his or her
 4769 date of separation or, in cases of extended active duty, within
 4770 1 year after ~~of~~ the date of discharge or separation subsequent
 4771 to the extension. Such person shall also be awarded preference
 4772 in promotion and shall be promoted ahead of all others who are
 4773 as well qualified or less qualified for the position. If ~~When~~ an
 4774 examination for promotion is used ~~utilized~~, such person shall be
 4775 awarded preference points, as provided in s. 295.08, and shall
 4776 be promoted ahead of all those who appear in an equal or lesser
 4777 position on the promotional register if, ~~provided~~ he or she
 4778 first successfully passes the examination for the promotional
 4779 position.

4780 Section 123. Subsection (3) of section 296.04, Florida
 4781 Statutes, is amended to read:

4782 296.04 Administrator; duties and qualifications;
 4783 responsibilities.—

4784 (3) The administrator position shall be assigned to the
 4785 Selected Exempt Service under part III ~~V~~ of chapter 110. The
 4786 director shall give veterans' preference in selecting an
 4787 administrator, as provided in ss. 295.07 and 295.085. In
 4788 addition, the administrator must have at least a 4-year degree

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4789 from an accredited university or college and 3 years of
 4790 administrative experience in a health care facility, or any
 4791 equivalent combination of experience, training, and education
 4792 totaling 7 years in work relating to administration of a health
 4793 care facility.

4794 Section 124. Subsection (2) of section 296.34, Florida
 4795 Statutes, is amended to read:

4796 296.34 Administrator; qualifications, duties, and
 4797 responsibilities.—

4798 (2) The position shall be assigned to the Selected Exempt
 4799 Service under part III ~~V~~ of chapter 110. The director shall give
 4800 veterans' ~~veterans~~ preference in selecting an administrator, as
 4801 provided in ss. 295.07 and 295.085. The administrator, at the
 4802 time of entering employment and at all times while employed as
 4803 the administrator, must hold a current valid license as a
 4804 nursing home administrator under part II of chapter 468.

4805 Section 125. Subsection (2) of section 381.00315, Florida
 4806 Statutes, is amended to read:

4807 381.00315 Public health advisories; public health
 4808 emergencies.—The State Health Officer is responsible for
 4809 declaring public health emergencies and issuing public health
 4810 advisories.

4811 (2) Individuals who assist the State Health Officer at his
 4812 or her request on a volunteer basis during a public health
 4813 emergency are entitled to the benefits specified in s.
 4814 112.964(2)-(5) ~~110.504(2), (3), (4), and (5)~~.

4815 Section 126. Paragraph (e) of subsection (3) of section
 4816 381.85, Florida Statutes, is amended to read:

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4817 381.85 Biomedical and social research.—

4818 (3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

4819 (e) The council shall be staffed by an executive director
 4820 and a secretary who shall be appointed by the council and who
 4821 are ~~shall be~~ exempt from ~~the provisions of~~ part II of chapter
 4822 110 relating to the Civil Career Service System.

4823 Section 127. Paragraph (a) of subsection (3) of section
 4824 394.47865, Florida Statutes, is amended to read:

4825 394.47865 South Florida State Hospital; privatization.—

4826 (3)(a) Current South Florida State Hospital employees who
 4827 are affected by the privatization shall be given first
 4828 preference for continued employment by the contractor. The
 4829 department shall make reasonable efforts to find suitable job
 4830 placements for employees who wish to remain within the state
 4831 Civil Career Service System.

4832 Section 128. Section 402.3057, Florida Statutes, is
 4833 amended to read:

4834 402.3057 Persons not required to be refingerprinted or
 4835 rescreened.—Notwithstanding any other provision of law to the
 4836 ~~contrary notwithstanding~~, human resource personnel who have been
 4837 fingerprinted or screened pursuant to chapters 393, 394, 397,
 4838 402, and 409, and teachers and noninstructional personnel who
 4839 have been fingerprinted pursuant to chapter 1012, who have not
 4840 been unemployed for more than 90 days thereafter, and who under
 4841 the penalty of perjury attest to the completion of such
 4842 fingerprinting or screening and to compliance with ~~the~~
 4843 ~~provisions of this~~ section and the standards for good moral
 4844 character as contained in ~~such provisions as~~ ss. 112.928

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4845 | ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and
 4846 | 409.175(6), are ~~shall~~ not be required to be refingerprinted or
 4847 | rescreened in order to comply with any caretaker screening or
 4848 | fingerprinting requirements.

4849 | Section 129. Paragraph (a) of subsection (2) of section
 4850 | 402.55, Florida Statutes, is amended to read:

4851 | 402.55 Management fellows program.—

4852 | (2) The departments are authorized to establish a
 4853 | management fellows program in order to provide highly qualified
 4854 | career candidates for key administrative and managerial
 4855 | positions in the departments. Such program shall include, but is
 4856 | not limited to:

4857 | (a) The identification annually by the secretaries, the
 4858 | assistant secretaries, and the district administrator in each
 4859 | district of one high-potential civil ~~career~~ service employee
 4860 | each, to be designated and appointed to serve as a full-time
 4861 | health and rehabilitative services management fellow for a
 4862 | ~~period of~~ 1 year.

4863 | Section 130. Subsection (4) of section 402.7305, Florida
 4864 | Statutes, is amended to read:

4865 | 402.7305 Department of Children and Family Services;
 4866 | procurement of contractual services; contract management.—

4867 | (4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.—The
 4868 | department shall establish contract monitoring units staffed by
 4869 | civil ~~career~~ service employees who report to a member of the
 4870 | Selected Exempt Service or Senior Management Service and who
 4871 | have been properly trained to perform contract monitoring. At
 4872 | least one member of the contract monitoring unit must possess

4873 specific knowledge and experience in the contract's program
 4874 area. The department shall establish a contract monitoring
 4875 process that includes, but is not limited to, the following
 4876 requirements:

4877 (a) Performing a risk assessment at the start of each
 4878 fiscal year and preparing an annual contract monitoring schedule
 4879 that considers the level of risk assigned. The department may
 4880 monitor any contract at any time regardless of whether such
 4881 monitoring was originally included in the annual contract
 4882 monitoring schedule.

4883 (b) Preparing a contract monitoring plan, including
 4884 sampling procedures, before performing onsite monitoring at
 4885 external locations of a service provider. The plan must include
 4886 a description of the programmatic, fiscal, and administrative
 4887 components that will be monitored on site. If appropriate,
 4888 clinical and therapeutic components may be included.

4889 (c) Conducting analyses of the performance and compliance
 4890 of an external service provider by means of desk reviews if the
 4891 external service provider will not be monitored on site during a
 4892 fiscal year.

4893 (d) Unless the department sets forth in writing the need
 4894 for an extension, providing a written report presenting the
 4895 results of the monitoring within 30 days after the completion of
 4896 the onsite monitoring or desk review.

4897 (e) Developing and maintaining a set of procedures
 4898 describing the contract monitoring process.

4899
 4900 Notwithstanding any other provision of this section, the

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4901 department shall limit monitoring of a child-caring or child-
 4902 placing services provider under this subsection to only once per
 4903 year. Such monitoring may not duplicate administrative
 4904 monitoring that is included in the survey of a child welfare
 4905 provider conducted by a national accreditation organization
 4906 specified under s. 402.7306(1).

4907 Section 131. Subsection (2) of section 402.731, Florida
 4908 Statutes, is amended to read:

4909 402.731 Department of Children and Family Services
 4910 certification programs for employees and service providers;
 4911 employment provisions for transition to community-based care.—

4912 (2) The department shall develop and implement employment
 4913 programs to attract and retain competent staff to support and
 4914 facilitate the transition to privatized community-based care.
 4915 Such ~~employment~~ programs must ~~shall~~ include lump-sum bonuses,
 4916 salary incentives, relocation allowances, or severance pay. The
 4917 department shall also contract for the delivery or
 4918 administration of outplacement services. The department shall
 4919 establish time-limited exempt positions as provided in s.
 4920 110.205(2)(f) ~~110.205(2)(i)~~, in accordance with the authority
 4921 provided in s. 216.262(1)(c)1. Employees appointed to fill such
 4922 exempt positions shall have the same salaries and benefits as
 4923 civil ~~career~~ service employees.

4924 Section 132. Section 409.1757, Florida Statutes, is
 4925 amended to read:

4926 409.1757 Persons not required to be refingerprinted or
 4927 rescreened.—Notwithstanding any other provision of law ~~to the~~
 4928 ~~contrary notwithstanding~~, human resource personnel who have been

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4929 fingerprinted or screened pursuant to chapters 393, 394, 397,
 4930 402, and this chapter, and teachers who have been fingerprinted
 4931 pursuant to chapter 1012, who have not been unemployed for more
 4932 than 90 days thereafter, and who under the penalty of perjury
 4933 attest to the completion of such fingerprinting or screening and
 4934 to compliance with ~~the provisions of~~ this section and the
 4935 standards for good moral character as contained in ~~such~~
 4936 ~~provisions as~~ ss. 112.928 ~~110.1127(3)~~, 393.0655(1), 394.457(6),
 4937 397.451, 402.305(2), and 409.175(6), are ~~shall~~ not ~~be~~ required
 4938 to be refingerprinted or rescreened in order to comply with any
 4939 caretaker screening or fingerprinting requirements.

4940 Section 133. Subsection (1) of section 409.9205, Florida
 4941 Statutes, is amended to read:

4942 409.9205 Medicaid Fraud Control Unit.—

4943 (1) Except as provided in s. 110.205, all positions in the
 4944 Medicaid Fraud Control Unit of the Department of Legal Affairs
 4945 are ~~hereby~~ transferred to the Civil Career Service ~~System~~.

4946 Section 134. Section 414.37, Florida Statutes, is amended
 4947 to read:

4948 414.37 Public assistance overpayment recovery
 4949 privatization; reemployment of laid-off ~~career service~~
 4950 employees.—Should civil ~~career~~ service employees of the
 4951 Department of Children and Family Services be subject to layoff
 4952 after July 1, 1995, due to the privatization of public
 4953 assistance overpayment recovery functions, the privatization
 4954 contract must ~~shall~~ require the contracting firm to give
 4955 priority consideration to employment of such employees. In
 4956 addition, a task force composed of representatives from the

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4957 Department of Children and Family Services and the Department of
 4958 Management Services shall be established to provide reemployment
 4959 assistance to such employees.

4960 Section 135. Subsection (7) of section 427.012, Florida
 4961 Statutes, is amended to read:

4962 427.012 The Commission for the Transportation
 4963 Disadvantaged.—There is created the Commission for the
 4964 Transportation Disadvantaged in the Department of
 4965 Transportation.

4966 (7) The commission shall appoint an executive director who
 4967 shall serve under the direction, supervision, and control of the
 4968 commission. The executive director, with the consent of the
 4969 commission, shall employ such personnel as ~~may be~~ necessary to
 4970 perform adequately the functions of the commission within
 4971 budgetary limitations. Employees of the commission are exempt
 4972 from the Civil Career Service System.

4973 Section 136. Paragraph (o) of subsection (1) of section
 4974 440.102, Florida Statutes, is amended to read:

4975 440.102 Drug-free workplace program requirements.—The
 4976 following provisions apply to a drug-free workplace program
 4977 implemented pursuant to law or to rules adopted by the Agency
 4978 for Health Care Administration:

4979 (1) DEFINITIONS.—Except where the context otherwise
 4980 requires, as used in this act:

4981 (o) "Safety-sensitive position" means, with respect to a
 4982 public employer, a position in which a drug impairment
 4983 constitutes an immediate and direct threat to public health or
 4984 safety, such as a position that requires the employee to carry a

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4985 | firearm, perform life-threatening procedures, work with
 4986 | confidential information or documents pertaining to criminal
 4987 | investigations, or work with controlled substances; a position
 4988 | subject to s. 112.928 ~~110.1127~~; or a position in which a
 4989 | momentary lapse in attention could result in injury or death to
 4990 | another person.

4991 | Section 137. Subsection (2) of section 447.203, Florida
 4992 | Statutes, is amended to read:

4993 | 447.203 Definitions.—As used in this part:

4994 | (2) "Public employer" or "employer" means the state or any
 4995 | county, municipality, or special district, or any subdivision or
 4996 | agency thereof, which the commission determines has sufficient
 4997 | legal distinctiveness ~~properly~~ to properly carry out the
 4998 | functions of a public employer. With respect to all public
 4999 | employees determined by the commission as properly belonging to
 5000 | a statewide bargaining unit composed of state civil ~~Career~~
 5001 | ~~service~~ ~~System~~ employees or selected exempt ~~Professional~~ service
 5002 | employees, the Governor is ~~shall be deemed to be~~ the public
 5003 | employer; and the Board of Governors of the State University
 5004 | System, or the board's designee, is ~~shall be deemed to be~~ the
 5005 | public employer with respect to all public employees of each
 5006 | constituent state university. The board of trustees of a
 5007 | community college is ~~shall be deemed to be~~ the public employer
 5008 | with respect to all employees of the community college. The
 5009 | district school board is ~~shall be deemed to be~~ the public
 5010 | employer with respect to all employees of the school district.
 5011 | The Board of Trustees of the Florida School for the Deaf and the
 5012 | Blind is ~~shall be deemed to be~~ the public employer with respect

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5013 to the academic and academic administrative personnel of the
 5014 Florida School for the Deaf and the Blind. The Governor is ~~shall~~
 5015 ~~be deemed to be~~ the public employer with respect to all
 5016 employees in the Correctional Education Program of the
 5017 Department of Corrections established pursuant to s. 944.801.

5018 Section 138. Subsections (8) and (9) of section 447.207,
 5019 Florida Statutes, are amended to read:

5020 447.207 Commission; powers and duties.—

5021 (8) The commission or its designated agent shall hear
 5022 appeals arising out of any suspension, reduction in pay,
 5023 demotion, or dismissal of any permanent employee in the Civil
 5024 ~~State Career Service System~~ in the manner provided in s.
 5025 110.227.

5026 (9) Pursuant to s. 447.208, the commission or its
 5027 designated agent shall hear appeals, and enter such orders as it
 5028 deems appropriate, arising out of:

5029 ~~(a) Section 110.124, relating to termination or transfer~~
 5030 ~~of State Career Service System employees aged 65 or older.~~

5031 (a)(b) Section 112.044(4), relating to age discrimination.

5032 (b)(e) Section 295.11, relating to reasons for not
 5033 employing a preferred veteran applicant.

5034 Section 139. Section 447.209, Florida Statutes, is amended
 5035 to read:

5036 447.209 Public employer's rights.—It is the right of the
 5037 public employer to determine unilaterally the purpose of each of
 5038 its constituent agencies, set standards of services to be
 5039 offered to the public, and exercise control and discretion over
 5040 its organization and operations. It is also the right of the

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5041 public employer to direct its employees, take disciplinary
 5042 action for proper cause, and relieve its employees from duty
 5043 because of lack of work or for other legitimate reasons.
 5044 However, the exercise of such rights does ~~shall~~ not preclude
 5045 employees or their representatives from raising grievances,
 5046 should decisions on the above matters have the practical
 5047 consequence of violating the terms and conditions of any
 5048 collective bargaining agreement in force or any civil ~~or career~~
 5049 service rule ~~regulation~~.

5050 Section 140. Section 447.401, Florida Statutes, is amended
 5051 to read:

5052 447.401 Grievance procedures.—Each public employer and
 5053 bargaining agent shall negotiate a grievance procedure to be
 5054 used for the settlement of disputes between employer and
 5055 employee, or group of employees, involving the interpretation or
 5056 application of a collective bargaining agreement. Such grievance
 5057 procedure shall have as its terminal step a final and binding
 5058 disposition by an impartial neutral, mutually selected by the
 5059 parties; however, if ~~when~~ the issue under appeal is an
 5060 allegation of abuse, abandonment, or neglect by an employee
 5061 under s. 39.201 or s. 415.1034, the grievance may not be decided
 5062 until the abuse, abandonment, or neglect of a child has been
 5063 judicially determined. However, an arbiter or other neutral may
 5064 ~~shall not have the power to~~ add to, subtract from, modify, or
 5065 alter the terms of a collective bargaining agreement. If an
 5066 employee organization is certified as the bargaining agent of a
 5067 unit, the grievance procedure ~~then~~ in existence may be the
 5068 subject of collective bargaining, and any agreement that ~~which~~

5069 | is reached supersedes ~~shall supersede~~ the previously existing
 5070 | procedure. All public employees shall have the right to a fair
 5071 | and equitable grievance procedure administered without regard to
 5072 | membership or nonmembership in any organization, except that
 5073 | certified employee organizations may ~~shall~~ not be required to
 5074 | process grievances for employees who are not members of the
 5075 | organization. A civil ~~career~~ service employee may use ~~shall have~~
 5076 | ~~the option of utilizing~~ the civil service appeal procedure, an
 5077 | unfair labor practice procedure, or a grievance procedure
 5078 | established under this section, but such employee may not avail
 5079 | ~~is precluded from availing~~ himself or herself of ~~to~~ more than
 5080 | one of these procedures.

5081 | Section 141. Paragraph (a) of subsection (2) of section
 5082 | 456.048, Florida Statutes, is amended to read:

5083 | 456.048 Financial responsibility requirements for certain
 5084 | health care practitioners.—

5085 | (2) The board or department may grant exemptions upon
 5086 | application by practitioners meeting any of the following
 5087 | criteria:

5088 | (a) Any person licensed under chapter 457, s. 458.3475, s.
 5089 | 459.023, chapter 460, chapter 461, s. 464.012, chapter 466, or
 5090 | chapter 467 who practices exclusively as an officer, employee,
 5091 | or agent of the Federal Government or of the state or its
 5092 | agencies or its subdivisions. For the purposes of this
 5093 | subsection, an agent of the state, its agencies, or its
 5094 | subdivisions is a person who is eligible for coverage under any
 5095 | self-insurance or insurance program authorized by ~~the provisions~~
 5096 | ~~of~~ s. 768.28(16) or who is a volunteer as defined in s. 112.961

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5097 | ~~under s. 110.501(1).~~

5098 | Section 142. Section 551.116, Florida Statutes, is amended
5099 | to read:

5100 | 551.116 Days and hours of operation.—Slot machine gaming
5101 | areas may be open daily throughout the year. The slot machine
5102 | gaming areas may be open a total ~~cumulative amount~~ of 18 hours
5103 | per day on Monday through Friday, ~~and~~ 24 hours per day on
5104 | Saturday and Sunday, and on those holidays specified in s.
5105 | 112.929 ~~110.117(1)~~.

5106 | Section 143. Subsection (29) of section 570.07, Florida
5107 | Statutes, is amended to read:

5108 | 570.07 Department of Agriculture and Consumer Services;
5109 | functions, powers, and duties.—The department shall have and
5110 | exercise the following functions, powers, and duties:

5111 | (29) To advance funds monthly to civil ~~career~~ service
5112 | employees to be used for the purchase of official state samples
5113 | for state examination. Each monthly advance shall be ~~in an~~
5114 | ~~amount~~ equal to one-twelfth of the actual expenses paid the
5115 | position for samples in the previous fiscal year or, in the case
5116 | of a new position, one-twelfth of the expenses paid for samples
5117 | of a similar classification in the previous fiscal year;
5118 | however, in the event of unusual circumstances, such advances
5119 | may be increased for up to ~~a period not to exceed~~ 60 days.

5120 | Advances shall be granted only to civil ~~career~~ service employees
5121 | who have executed a proper power of attorney with the department
5122 | to ensure the collection of such advances if not timely repaid.

5123 | Section 144. Paragraph (b) of subsection (3) of section
5124 | 601.10, Florida Statutes, is amended to read:

5125 601.10 Powers of the Department of Citrus.—The Department
 5126 of Citrus shall have and shall exercise such general and
 5127 specific powers as are delegated to it by this chapter and other
 5128 statutes of the state, which powers shall include, but shall not
 5129 be confined to, the following:

5130 (3) To employ and, at its pleasure, discharge an executive
 5131 director as it deems necessary and to outline his or her powers
 5132 and duties and fix his or her compensation.

5133 (b) The Department of Citrus may pay, or participate in
 5134 the payment of, premiums for health, accident, and life
 5135 insurance for its full-time employees, pursuant to such rules ~~or~~
 5136 ~~regulations~~ as it may adopt; and such payments are in addition
 5137 to the regular salaries of such full-time employees. The payment
 5138 of such or similar benefits to its employees in foreign
 5139 countries, including, but not limited to, social security,
 5140 retirement, and other similar fringe benefit costs, may be in
 5141 accordance with laws in effect in the country of employment,
 5142 except that ~~no benefits will be payable to employees not~~
 5143 ~~authorized for other state employees~~ are not payable to its
 5144 employees, as provided in the Civil Career Service System.

5145 Section 145. Subsection (6) of section 624.307, Florida
 5146 Statutes, is amended to read:

5147 624.307 General powers; duties.—

5148 (6) The department and office may each employ actuaries
 5149 who shall be at-will employees and who shall serve at the
 5150 pleasure of the Chief Financial Officer, in the case of
 5151 department employees, or at the pleasure of the director of the
 5152 office, in the case of office employees. Actuaries employed

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5153 pursuant to this paragraph must ~~shall~~ be members of the Society
 5154 of Actuaries or the Casualty Actuarial Society and are ~~shall be~~
 5155 exempt from the Civil Career Service ~~System~~ established under
 5156 chapter 110. The salaries of the actuaries employed pursuant to
 5157 this paragraph ~~shall be set in accordance with s.~~
 5158 ~~216.251(2)(a)5.~~ and shall be set at levels ~~which are~~
 5159 commensurate with those ~~salary levels~~ paid to actuaries by the
 5160 insurance industry.

5161 Section 146. Subsection (3) of section 624.437, Florida
 5162 Statutes, is amended to read:

5163 624.437 "Multiple-employer welfare arrangement" defined;
 5164 certificate of authority required; penalty.-

5165 (3) This section does not apply to a multiple-employer
 5166 welfare arrangement that ~~which~~ offers or provides benefits that
 5167 ~~which~~ are fully insured by an authorized insurer, to an
 5168 arrangement that ~~which~~ is exempt from state insurance regulation
 5169 in accordance with Pub. L. No. 93-406, the Employee Retirement
 5170 Income Security Act, or to the state group health insurance
 5171 program administered under s. 112.942 ~~pursuant to s. 110.123.~~

5172 Section 147. Paragraph (h) of subsection (4) of section
 5173 627.6488, Florida Statutes, is amended to read:

5174 627.6488 Florida Comprehensive Health Association.-

5175 (4) The association shall:

5176 (h) Contract with preferred provider organizations and
 5177 health maintenance organizations giving due consideration to
 5178 those ~~the preferred provider organizations and health~~
 5179 ~~maintenance~~ organizations that ~~which~~ have contracted with the
 5180 state group health insurance program pursuant to s. 112.942

5181 | ~~110.123~~. If cost-effective and available in the county where the
 5182 | policyholder resides, the board, upon application or renewal of
 5183 | a policy, shall place a high-risk individual, as established
 5184 | under s. 627.6498(4)(a)4., with the plan case manager who shall
 5185 | determine the most cost-effective quality care system or health
 5186 | care provider and shall place the individual in such system or
 5187 | with such health care provider. If cost-effective and available
 5188 | in the county where the policyholder resides, the board, with
 5189 | the consent of the policyholder, may place a low-risk or medium-
 5190 | risk individual, as established under s. 627.6498(4)(a)4., with
 5191 | the plan case manager who may determine the most cost-effective
 5192 | quality care system or health care provider and shall place the
 5193 | individual in such system or with such health care provider.
 5194 | Before ~~Prior to~~ and during the implementation of case
 5195 | management, the plan case manager shall obtain input from the
 5196 | policyholder, parent, or guardian.

5197 | Section 148. Paragraph (a) of subsection (1) of section
 5198 | 627.649, Florida Statutes, is amended to read:

5199 | 627.649 Administrator.—

5200 | (1) The board shall select an administrator, through a
 5201 | competitive bidding process, to administer the plan. The board
 5202 | shall evaluate bids submitted under this subsection based on
 5203 | criteria established by the board, which criteria shall include:

5204 | (a) The administrator's proven ability to handle large
 5205 | group accident and health insurance, ~~and~~ Due consideration
 5206 | shall be given to an ~~any~~ administrator who has acted as a third-
 5207 | party administrator for the state group health insurance program
 5208 | pursuant to s. 112.942 ~~110.123~~.

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5209 Section 149. Paragraph (a) of subsection (2) and
 5210 subsection (3) of section 627.6498, Florida Statutes, are
 5211 amended to read:

5212 627.6498 Minimum benefits coverage; exclusions; premiums;
 5213 deductibles.—

5214 (2) BENEFITS.—

5215 (a) The plan shall offer major medical expense coverage
 5216 similar to that provided by the state group health insurance
 5217 program under s. 112.942, ~~as defined in s. 110.123~~ except as
 5218 specified in subsection (3), to every eligible person who is not
 5219 eligible for Medicare. Major medical expense coverage offered
 5220 under the plan ~~must~~ shall pay an eligible person's covered
 5221 expenses, subject to limits on the deductible and coinsurance
 5222 payments authorized under subsection (4), up to a lifetime limit
 5223 of \$500,000 per covered individual. The maximum limit ~~may~~ under
 5224 ~~this paragraph shall~~ not be altered by the board, and an ~~no~~
 5225 actuarially equivalent benefit ~~may~~ not be substituted by the
 5226 board.

5227 (3) COVERED EXPENSES.—~~The coverage to be~~ issued by the
 5228 association must ~~shall~~ be patterned after the state group health
 5229 insurance program as provided in s. 112.942 ~~defined in s.~~
 5230 ~~110.123~~, including its benefits, exclusions, and other
 5231 limitations, except as otherwise provided in this act. The plan
 5232 may cover the cost of experimental drugs that ~~which~~ have been
 5233 approved for use by the Food and Drug Administration on an
 5234 experimental basis if the cost is less than the usual and
 5235 customary treatment. Such coverage applies ~~shall~~ only apply to
 5236 those insureds who are in the case management system upon the

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5237 approval of the insured, the case manager, and the board.

5238 Section 150. Subsection (4) of section 627.6617, Florida
5239 Statutes, is amended to read:

5240 627.6617 Coverage for home health care services.—

5241 (4) ~~The provisions of~~ This section does ~~shall~~ not apply to
5242 a multiple-employer welfare arrangement as defined in s.
5243 624.437(1) and in the State Health Plan as provided in s.
5244 112.942 ~~110.123~~.

5245 Section 151. Paragraph (d) of subsection (2) of section
5246 627.6686, Florida Statutes, is amended to read:

5247 627.6686 Coverage for individuals with autism spectrum
5248 disorder required; exception.—

5249 (2) As used in this section, the term:

5250 (d) "Health insurance plan" means a group health insurance
5251 policy or group health benefit plan offered by an insurer which
5252 includes the state group insurance program provided under s.
5253 112.942 ~~110.123~~. The term does not include a any health
5254 insurance plan offered in the individual market which, ~~any~~
5255 ~~health insurance plan that~~ is individually underwritten, ~~or any~~
5256 ~~health insurance plan~~ provided to a small employer.

5257 Section 152. Paragraph (b) of subsection (7) of section
5258 849.086, Florida Statutes, is amended to read:

5259 849.086 Cardrooms authorized.—

5260 (7) CONDITIONS FOR OPERATING A CARDROOM.—

5261 (b) A ~~Any~~ cardroom operator may operate a cardroom at the
5262 pari-mutuel facility daily throughout the year, if the
5263 permitholder meets the requirements under paragraph (5) (b). The
5264 cardroom may be open a total ~~cumulative amount~~ of 18 hours per

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5265 day on Monday through Friday, ~~and~~ 24 hours per day on Saturday
 5266 and Sunday, and on the holidays specified in s. 112.929
 5267 ~~110.117(1)~~.

5268 Section 153. Paragraph (a) of subsection (4) of section
 5269 943.0585, Florida Statutes, is amended to read:

5270 943.0585 Court-ordered expunction of criminal history
 5271 records.—The courts of this state have jurisdiction over their
 5272 own procedures, including the maintenance, expunction, and
 5273 correction of judicial records containing criminal history
 5274 information to the extent such procedures are not inconsistent
 5275 with the conditions, responsibilities, and duties established by
 5276 this section. Any court of competent jurisdiction may order a
 5277 criminal justice agency to expunge the criminal history record
 5278 of a minor or an adult who complies with the requirements of
 5279 this section. The court shall not order a criminal justice
 5280 agency to expunge a criminal history record until the person
 5281 seeking to expunge a criminal history record has applied for and
 5282 received a certificate of eligibility for expunction pursuant to
 5283 subsection (2). A criminal history record that relates to a
 5284 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 5285 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 5286 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 5287 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
 5288 any violation specified as a predicate offense for registration
 5289 as a sexual predator pursuant to s. 775.21, without regard to
 5290 whether that offense alone is sufficient to require such
 5291 registration, or for registration as a sexual offender pursuant
 5292 to s. 943.0435, may not be expunged, without regard to whether

5293 adjudication was withheld, if the defendant was found guilty of
 5294 or pled guilty or nolo contendere to the offense, or if the
 5295 defendant, as a minor, was found to have committed, or pled
 5296 guilty or nolo contendere to committing, the offense as a
 5297 delinquent act. The court may only order expunction of a
 5298 criminal history record pertaining to one arrest or one incident
 5299 of alleged criminal activity, except as provided in this
 5300 section. The court may, at its sole discretion, order the
 5301 expunction of a criminal history record pertaining to more than
 5302 one arrest if the additional arrests directly relate to the
 5303 original arrest. If the court intends to order the expunction of
 5304 records pertaining to such additional arrests, such intent must
 5305 be specified in the order. A criminal justice agency may not
 5306 expunge any record pertaining to such additional arrests if the
 5307 order to expunge does not articulate the intention of the court
 5308 to expunge a record pertaining to more than one arrest. This
 5309 section does not prevent the court from ordering the expunction
 5310 of only a portion of a criminal history record pertaining to one
 5311 arrest or one incident of alleged criminal activity.
 5312 Notwithstanding any law to the contrary, a criminal justice
 5313 agency may comply with laws, court orders, and official requests
 5314 of other jurisdictions relating to expunction, correction, or
 5315 confidential handling of criminal history records or information
 5316 derived therefrom. This section does not confer any right to the
 5317 expunction of any criminal history record, and any request for
 5318 expunction of a criminal history record may be denied at the
 5319 sole discretion of the court.

5320 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any

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5321 criminal history record of a minor or an adult which is ordered
 5322 expunged by a court of competent jurisdiction pursuant to this
 5323 section must be physically destroyed or obliterated by any
 5324 criminal justice agency having custody of such record; except
 5325 that any criminal history record in the custody of the
 5326 department must be retained in all cases. A criminal history
 5327 record ordered expunged that is retained by the department is
 5328 confidential and exempt from the provisions of s. 119.07(1) and
 5329 s. 24(a), Art. I of the State Constitution and not available to
 5330 any person or entity except upon order of a court of competent
 5331 jurisdiction. A criminal justice agency may retain a notation
 5332 indicating compliance with an order to expunge.

5333 (a) The person who is the subject of a criminal history
 5334 record that is expunged under this section or under other
 5335 provisions of law, including former s. 893.14, former s. 901.33,
 5336 and former s. 943.058, may lawfully deny or fail to acknowledge
 5337 the arrests covered by the expunged record, unless ~~except when~~
 5338 the subject of the record:

- 5339 1. Is a candidate for employment with a criminal justice
 5340 agency;
- 5341 2. Is a defendant in a criminal prosecution;
- 5342 3. Concurrently or subsequently petitions for relief under
 5343 this section or s. 943.059;
- 5344 4. Is a candidate for admission to The Florida Bar;
- 5345 5. Is seeking to be employed or licensed by or to contract
 5346 with the Department of Children and Family Services, the Agency
 5347 for Health Care Administration, the Agency for Persons with
 5348 Disabilities, or the Department of Juvenile Justice or to be

5349 | employed or used by such contractor or licensee in a sensitive
 5350 | position having direct contact with children, the
 5351 | developmentally disabled, the aged, or the elderly as provided
 5352 | in s. 112.928 ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.
 5353 | 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
 5354 | 415.102(5), chapter 916, s. 985.644, chapter 400, or chapter
 5355 | 429;

5356 | 6. Is seeking to be employed or licensed by the Department
 5357 | of Education, any district school board, any university
 5358 | laboratory school, any charter school, any private or parochial
 5359 | school, or any local governmental entity that licenses child
 5360 | care facilities; or

5361 | 7. Is seeking authorization from a seaport listed in s.
 5362 | 311.09 for employment within or access to one or more of such
 5363 | seaports pursuant to s. 311.12.

5364 | Section 154. Paragraph (a) of subsection (4) of section
 5365 | 943.059, Florida Statutes, is amended to read:

5366 | 943.059 Court-ordered sealing of criminal history
 5367 | records.—The courts of this state shall continue to have
 5368 | jurisdiction over their own procedures, including the
 5369 | maintenance, sealing, and correction of judicial records
 5370 | containing criminal history information to the extent such
 5371 | procedures are not inconsistent with the conditions,
 5372 | responsibilities, and duties established by this section. Any
 5373 | court of competent jurisdiction may order a criminal justice
 5374 | agency to seal the criminal history record of a minor or an
 5375 | adult who complies with the requirements of this section. The
 5376 | court shall not order a criminal justice agency to seal a

5377 | criminal history record until the person seeking to seal a
 5378 | criminal history record has applied for and received a
 5379 | certificate of eligibility for sealing pursuant to subsection
 5380 | (2). A criminal history record that relates to a violation of s.
 5381 | 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 5382 | 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 5383 | 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 5384 | 916.1075, a violation enumerated in s. 907.041, or any violation
 5385 | specified as a predicate offense for registration as a sexual
 5386 | predator pursuant to s. 775.21, without regard to whether that
 5387 | offense alone is sufficient to require such registration, or for
 5388 | registration as a sexual offender pursuant to s. 943.0435, may
 5389 | not be sealed, without regard to whether adjudication was
 5390 | withheld, if the defendant was found guilty of or pled guilty or
 5391 | nolo contendere to the offense, or if the defendant, as a minor,
 5392 | was found to have committed or pled guilty or nolo contendere to
 5393 | committing the offense as a delinquent act. The court may only
 5394 | order sealing of a criminal history record pertaining to one
 5395 | arrest or one incident of alleged criminal activity, except as
 5396 | provided in this section. The court may, at its sole discretion,
 5397 | order the sealing of a criminal history record pertaining to
 5398 | more than one arrest if the additional arrests directly relate
 5399 | to the original arrest. If the court intends to order the
 5400 | sealing of records pertaining to such additional arrests, such
 5401 | intent must be specified in the order. A criminal justice agency
 5402 | may not seal any record pertaining to such additional arrests if
 5403 | the order to seal does not articulate the intention of the court
 5404 | to seal records pertaining to more than one arrest. This section

5405 | does not prevent the court from ordering the sealing of only a
 5406 | portion of a criminal history record pertaining to one arrest or
 5407 | one incident of alleged criminal activity. Notwithstanding any
 5408 | law to the contrary, a criminal justice agency may comply with
 5409 | laws, court orders, and official requests of other jurisdictions
 5410 | relating to sealing, correction, or confidential handling of
 5411 | criminal history records or information derived therefrom. This
 5412 | section does not confer any right to the sealing of any criminal
 5413 | history record, and any request for sealing a criminal history
 5414 | record may be denied at the sole discretion of the court.

5415 | (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
 5416 | history record of a minor or an adult which is ordered sealed by
 5417 | a court of competent jurisdiction pursuant to this section is
 5418 | confidential and exempt from the provisions of s. 119.07(1) and
 5419 | s. 24(a), Art. I of the State Constitution and is available only
 5420 | to the person who is the subject of the record, to the subject's
 5421 | attorney, to criminal justice agencies for their respective
 5422 | criminal justice purposes, which include conducting a criminal
 5423 | history background check for approval of firearms purchases or
 5424 | transfers as authorized by state or federal law, to judges in
 5425 | the state courts system for the purpose of assisting them in
 5426 | their case-related decisionmaking responsibilities, as set forth
 5427 | in s. 943.053(5), or to those entities set forth in
 5428 | subparagraphs (a)1., 4., 5., 6., and 8. for their respective
 5429 | licensing, access authorization, and employment purposes.

5430 | (a) The subject of a criminal history record sealed under
 5431 | this section or under other provisions of law, including former
 5432 | s. 893.14, former s. 901.33, and former s. 943.058, may lawfully

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5433 deny or fail to acknowledge the arrests covered by the sealed
 5434 record, unless ~~except when~~ the subject of the record:
 5435 1. Is a candidate for employment with a criminal justice
 5436 agency;
 5437 2. Is a defendant in a criminal prosecution;
 5438 3. Concurrently or subsequently petitions for relief under
 5439 this section or s. 943.0585;
 5440 4. Is a candidate for admission to The Florida Bar;
 5441 5. Is seeking to be employed or licensed by or to contract
 5442 with the Department of Children and Family Services, the Agency
 5443 for Health Care Administration, the Agency for Persons with
 5444 Disabilities, or the Department of Juvenile Justice or to be
 5445 employed or used by such contractor or licensee in a sensitive
 5446 position having direct contact with children, the
 5447 developmentally disabled, the aged, or the elderly as provided
 5448 in s. 112.928 ~~110.1127(3)~~, s. 393.063, s. 394.4572(1), s.
 5449 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s.
 5450 415.102(5), s. 415.103, chapter 916, s. 985.644, chapter 400, or
 5451 chapter 429;
 5452 6. Is seeking to be employed or licensed by the Department
 5453 of Education, any district school board, any university
 5454 laboratory school, any charter school, any private or parochial
 5455 school, or any local governmental entity that licenses child
 5456 care facilities;
 5457 7. Is attempting to purchase a firearm from a licensed
 5458 importer, licensed manufacturer, or licensed dealer and is
 5459 subject to a criminal history check under state or federal law;
 5460 or

5461 8. Is seeking authorization from a Florida seaport
 5462 identified in s. 311.09 for employment within or access to one
 5463 or more of such seaports pursuant to s. 311.12.

5464 Section 155. Subsection (2) of section 945.043, Florida
 5465 Statutes, is amended to read:

5466 945.043 Department-operated day care services.—

5467 (2) The department is exempt from s. 112.918 ~~the~~
 5468 ~~requirements of s. 110.151.~~

5469 Section 156. Subsection (1) of section 946.525, Florida
 5470 Statutes, is amended to read:

5471 946.525 Participation by the corporation in the state
 5472 group health insurance and prescription drug programs.—

5473 (1) The board of directors of the corporation established
 5474 under this part may apply for participation in the state group
 5475 health insurance program authorized under s. 112.942 ~~in s.~~
 5476 ~~110.123~~ and the prescription drug coverage program authorized
 5477 under s. 112.946 ~~by s. 110.12315~~ by submitting an application
 5478 along with a \$500 nonrefundable fee to the Department of
 5479 Management Services.

5480 Section 157. Paragraph (e) of subsection (4) of section
 5481 985.045, Florida Statutes, is amended to read:

5482 985.045 Court records.—

5483 (4) A court record of proceedings under this chapter is
 5484 not admissible in evidence in any other civil or criminal
 5485 proceeding, except that:

5486 (e) Records of proceedings under this chapter may be used
 5487 to prove disqualification under ss. 112.928 ~~110.1127~~, 393.0655,
 5488 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and

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5489 985.644.

5490 Section 158. Paragraph (k) of subsection (2) of section
5491 1001.705, Florida Statutes, is amended to read:

5492 1001.705 Responsibility for the State University System
5493 under s. 7, Art. IX of the State Constitution.—

5494 (2) CONSTITUTIONAL DUTIES OF THE BOARD OF GOVERNORS OF THE
5495 STATE UNIVERSITY SYSTEM.—In accordance with s. 7, Art. IX of the
5496 State Constitution, the Board of Governors of the State
5497 University System has the duty to operate, regulate, control,
5498 and be fully responsible for the management of the whole
5499 publicly funded State University System and the board, or the
5500 board's designee, has responsibility for:

5501 (k) Establishing a personnel system for all state
5502 university employees; however, the Department of Management
5503 Services shall retain authority over state university employees
5504 for programs established in ss. 112.942 ~~110.123~~, 112.947
5505 ~~110.1232~~, 112.948 ~~110.1234~~, 112.949 ~~110.1238~~, and 112.951
5506 ~~110.161~~, and in chapters 121, 122, and 238.

5507 Section 159. Paragraph (b) of subsection (6) of section
5508 1001.706, Florida Statutes, is amended to read:

5509 1001.706 Powers and duties of the Board of Governors.—

5510 (6) POWERS AND DUTIES RELATING TO PERSONNEL.—

5511 (b) The Department of Management Services shall retain
5512 authority over state university employees for programs
5513 established in ss. 112.942 ~~110.123~~, 112.947 ~~110.1232~~, 112.948
5514 ~~110.1234~~, 112.949 ~~110.1238~~, and 112.951 ~~110.161~~ and in chapters
5515 121, 122, and 238. Unless specifically authorized by law,
5516 neither the Board of Governors nor a state university may offer

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5517 group insurance programs for employees as a substitute for or as
 5518 an alternative to the health insurance programs offered pursuant
 5519 to chapter 112 ~~110~~.

5520 Section 160. Paragraph (f) of subsection (4) and paragraph
 5521 (f) of subsection (8) of section 1002.36, Florida Statutes, are
 5522 amended to read:

5523 1002.36 Florida School for the Deaf and the Blind.—

5524 (4) BOARD OF TRUSTEES.—

5525 (f) The board of trustees shall:

5526 1. Prepare and submit legislative budget requests for
 5527 operations and fixed capital outlay, in accordance with chapter
 5528 216 and ss. 1011.56 and 1013.60, to the Department of Education
 5529 for review and approval. The department must analyze the amount
 5530 requested for fixed capital outlay to determine if the request
 5531 is consistent with the school's campus master plan, educational
 5532 plant survey, and facilities master plan. Projections of
 5533 facility space needs may exceed the norm space and occupant
 5534 design criteria established in the State Requirements for
 5535 Educational Facilities.

5536 2. Approve and administer an annual operating budget in
 5537 accordance with ss. 1011.56 and 1011.57.

5538 3. Require all funds received other than gifts, donations,
 5539 bequests, funds raised by or belonging to student clubs or
 5540 student organizations, and funds held for specific students or
 5541 in accounts for individual students to be deposited in the State
 5542 Treasury and expended as authorized in the General
 5543 Appropriations Act.

5544 4. Require all purchases to be in accordance with ~~the~~

5545 ~~provisions of~~ chapter 287 except for purchases made with funds
 5546 received as gifts, donations, or bequests; funds raised by or
 5547 belonging to student clubs or student organizations; or funds
 5548 held for specific students or in accounts for individual
 5549 students.

5550 5. Administer and maintain personnel programs for all
 5551 employees of the board of trustees and the Florida School for
 5552 the Deaf and the Blind who shall be state employees, including
 5553 the personnel classification and pay plan established in
 5554 accordance with ss. 110.205(2)(s) ~~110.205(2)(d)~~ and
 5555 216.251(2)(a)2. for academic and academic administrative
 5556 personnel, the provisions of chapter 110, and the provisions of
 5557 law that grant authority to the Department of Management
 5558 Services over such programs for state employees.

5559 6. Give preference in appointment and retention in
 5560 positions of employment as provided within s. 295.07(1).

5561 7. Ensure that the Florida School for the Deaf and the
 5562 Blind complies with s. 1013.351 concerning the coordination of
 5563 planning between the Florida School for the Deaf and the Blind
 5564 and local governing bodies.

5565 8. Ensure that the Florida School for the Deaf and the
 5566 Blind complies with s. 112.061 concerning per diem and travel
 5567 expenses of public officers, employees, and authorized persons
 5568 with respect to all funds other than funds received as gifts,
 5569 donations, or bequests; funds raised by or belonging to student
 5570 clubs or student organizations; or funds held for specific
 5571 students or in accounts for individual students.

5572 9. Adopt a master plan that ~~which~~ specifies the mission

5573 and objectives of the Florida School for the Deaf and the Blind.
 5574 The plan shall include, but not be limited to, procedures for
 5575 systematically measuring the school's progress toward meeting
 5576 its objectives, analyzing changes in the student population, and
 5577 modifying school programs and services to respond to such
 5578 changes. The plan shall be for a period of 5 years and shall be
 5579 reviewed for needed modifications every 2 years. The board of
 5580 trustees shall submit the initial plan and subsequent
 5581 modifications to the Speaker of the House of Representatives and
 5582 the President of the Senate.

5583 10. Designate a portion of the school as "The Verle Allyn
 5584 Pope Complex for the Deaf," in tribute to the late Senator Verle
 5585 Allyn Pope.

5586 (8) CAMPUS POLICE.—

5587 (f) The board of trustees shall adopt rules, including,
 5588 without limitation, rules for the appointment, employment, and
 5589 removal of campus police in accordance with the Civil State
 5590 ~~Career~~ Service under chapter 110, System and shall establish in
 5591 writing a policy manual, that includes, without limitation,
 5592 procedures for managing routine law enforcement situations and
 5593 emergency law enforcement situations. The board of trustees
 5594 shall furnish a copy of the policy manual to each of the campus
 5595 police officers it employs. A campus police officer appointed by
 5596 the board of trustees must have completed the training required
 5597 by the school in the special needs and proper procedures for
 5598 dealing with students served by the school.

5599 Section 161. Section 1012.62, Florida Statutes, is amended
 5600 to read:

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5601 1012.62 Transfer of sick leave and annual leave.—In
 5602 implementing ~~the provisions of~~ ss. 402.22(1)(d) and
 5603 1001.42(4)(m), educational personnel in Department of Children
 5604 and Family Services residential care facilities who are employed
 5605 by a district school board may request, and the district school
 5606 board shall accept, a lump-sum transfer of accumulated sick
 5607 leave for such personnel to the maximum allowed by policies of
 5608 the district school board, notwithstanding ~~the provisions of~~ s.
 5609 112.913 ~~110.122~~. Educational personnel in Department of Children
 5610 and Family Services residential care facilities who are employed
 5611 by a district school board under ~~the provisions of~~ s.
 5612 402.22(1)(d) may request, and the district school board shall
 5613 accept, a lump-sum transfer of accumulated annual leave for each
 5614 person employed by the district school board in a position in
 5615 the district eligible to accrue vacation leave under the
 5616 policies of the district school board.

5617 Section 162. Subsection (5) of section 1012.79, Florida
 5618 Statutes, is amended to read:

5619 1012.79 Education Practices Commission; organization.—

5620 (5) The commission, by a vote of three-fourths of the
 5621 membership, shall employ an executive director, who shall be
 5622 exempt from the Civil ~~career~~ Service. The executive director may
 5623 be dismissed by a majority vote of the membership.

5624 Section 163. Subsection (6) of section 1012.88, Florida
 5625 Statutes, is amended to read:

5626 1012.88 Florida College System institution police.—

5627 (6) The Florida College System institution, with the
 5628 approval of the Department of Law Enforcement, shall adopt

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5629 | rules, including, without limitation, rules for the appointment,
 5630 | employment, and removal of Florida College System institution
 5631 | police in accordance with the Civil state-Career Service under
 5632 | chapter 110, System and shall establish in writing a policy
 5633 | manual, that includes, without limitation, procedures for
 5634 | managing routine law enforcement situations and emergency law
 5635 | enforcement situations. The Florida College System institution
 5636 | shall furnish a copy of the policy manual to each of the police
 5637 | officers it employs.

5638 | Section 164. Section 1012.96, Florida Statutes, is amended
 5639 | to read:

5640 | 1012.96 IFAS extension personnel; federal health insurance
 5641 | ~~programs notwithstanding the provisions of s. 110.123.-~~

5642 | Notwithstanding s. 112.942, the Institute of Food and
 5643 | Agricultural Sciences at the University of Florida may pay the
 5644 | employer's share of premiums to the Federal Health Benefits
 5645 | Insurance Program from its appropriated budget for any
 5646 | cooperative extension employee of the institute having both
 5647 | state and federal appointments and participating in the Federal
 5648 | Civil Service Retirement System.

5649 | Section 165. On or before December 31, 2012, the
 5650 | Department of Management Services shall provide to the Executive
 5651 | Office of the Governor, the President of the Senate, and the
 5652 | Speaker of the House of Representatives a proposal to
 5653 | restructure and modernize the leave benefits of the State
 5654 | Personnel System. The proposal shall consider current leave
 5655 | policies of the state's private-sector employers and provide
 5656 | recommendations that will more closely align the state's leave

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5657 | benefits with those of the private sector, ensure better
5658 | management of benefits, and leverage leave benefit expenditures
5659 | to maximize the state's return on investment to competitively
5660 | recruit and retain a high-performing workforce.

5661 | Section 166. This act shall take effect July 1, 2012.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee
3 Representative Mayfield offered the following:

4
5 **Amendment**
6 Remove lines 301-303 and insert:
7 (3)~~(5)~~ Nothing in this chapter shall be construed either
8 to infringe upon or to supersede the rights guaranteed public
9 employees under chapter 447.

10
11 Remove lines 627-629
12



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee
3 Representative Mayfield offered the following:

Amendment

Remove lines 1980-1989 and insert:

7 The length of the probationary period may not exceed 18 months.
8 An employee who has not attained merit status in his or her
9 current position serves at the pleasure of the agency head and
10 may be dismissed at the discretion of the agency head.

11 (3) If an employee who has received an internal agency
12 promotion from a position in which the employee held merit
13 status is to be dismissed from the promotional position for
14 failure to meet the established performance standards of the
15 promotional position while in probationary status, the agency,
16 before dismissal, shall return the employee to his or her former
17 position, or to a position with substantially similar duties and
18



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Mayfield offered the following:

Amendment

6 Remove lines 3215-3232 and insert:

7 112.920 ~~110.1225~~ Furloughs.-~~If~~ When a deficit is certified
8 or projected to occur by the Revenue Estimating Conference
9 pursuant to s. 216.221 ~~216.136(3)~~, in any state fund that
10 supports salary and benefit appropriations for state employees,
11 the affected state agency or the judicial branch may propose,
12 upon approval by the Governor or the Chief Justice of the
13 Supreme Court, as appropriate, a furlough plan and related
14 budget amendments for consideration by the Legislative Budget
15 Commission. The Legislative Budget Commission, after
16 consultation with the Revenue Estimating Conference regarding
17 the projected deficit, may approve or disapprove the plan and
18 budget amendments in total. This subsection is subject to the
19 notice and review procedures set forth in s. 216.177



Amendment No. 3

20 ~~Administration Commission may propose a furlough plan to the~~
21 ~~Legislature, which must approve or disapprove such plan. The~~
22 plan must identify all affected positions and ensure that all
23 affected employees within a budget entity are subject to the
24 same reduction of hours for the same number of pay periods with
25 a commensurate reduction in pay.

26 (2) If authorized by the Legislature as a cost-savings
27 measure to address anticipated short-term shortfalls to funds
28 that support salary and benefit appropriations for state
29 employees for a specified fiscal year, a state agency or the
30 judicial branch may also impose furloughs as directed by the
31 Legislature in the General Appropriations Act.

32 (3) For the purposes of this section, the term "furlough"
33 means a temporary reduction in the regular hours of employment
34 administered as leave without pay.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Rulemaking & Regulation
2 Subcommittee

3 Representative Mayfield offered the following:
4

5 **Amendment (with title amendment)**

6 Remove lines 263-268 and insert:

7 Section 1. Chapter 110, Florida Statutes, is renamed
8 "State Personnel System."

9 Section 2. Part I of chapter 110, Florida Statutes, is
10 renamed "General Provisions."

11
12 Remove lines 505-512 and insert:

13 110.1055 Rules and rulemaking authority.-

14 The department ~~of Management Services~~ shall adopt rules as
15 necessary to effectuate the provisions of this chapter, ~~as~~
16 ~~amended by this act, and in accordance with the authority~~
17 ~~granted to the department in this chapter. All existing rules~~
18 ~~relating to this chapter are statutorily repealed January 1,~~
19 ~~2002, unless otherwise readopted.~~



Amendment No. 4

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Remove lines 630-634 and lines 707-708 and lines 824-825 and lines 942-943 and lines 1054-1055 and lines 1104-1105 and lines 1120-1121 and lines 1140-1141 and lines 1210-1211 and lines 1710-1711 and lines 1759-1760 and lines 1847-1848 and lines 1888-1889 and lines 1909-1910 and lines 1942-1943 and lines 2126-2127 and lines 2332-2333 and lines 3602-3604

Remove lines 769-773 and insert:

~~(5) The Department of Management Services, in consultation with the agencies and, to the extent applicable, with Florida's public community colleges, public career centers, and public universities, shall adopt rules to administer this section.~~

Remove lines 893-896 and insert:

~~(6) The department shall review and monitor executive agency actions in carrying out the rules adopted by the department pursuant to this section.~~

Remove line 909 and insert:

The department ~~of Management Services~~ shall establish

Remove lines 1312-1314 and insert:

Section 22. Part II of chapter 110, Florida Statutes, is renamed "Civil Service."

Remove lines 1866-1869 and insert:



Amendment No. 4

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

50
51 Remove lines 2151-2154 and insert:

52 ~~(3) The department may adopt rules to administer the~~
53 ~~public employee performance evaluation system which establish~~
54 ~~procedures for performance evaluation, review periods, and~~
55 ~~forms.~~

56
57 Remove lines 2345-2349 and insert:

58 Section 36. Part V of chapter 110, Florida Statutes, is
59 renumbered as part III of that chapter, consisting of ss.
60 110.302-110.3023, Florida Statutes, and is renamed "Selected
61 Exempt Service."

62
63 Remove lines 2498-2502 and insert:

64 Section 41. Part III of chapter 110, Florida Statutes, is
65 renumbered as part IV of that chapter, consisting of ss.
66 110.401-110.4035, Florida Statutes, and is renamed "Senior
67 Management Service."

68
69 Remove lines 2701-2704 and insert:

70 Section 46. Part IX of chapter 112, Florida Statutes,
71 consisting of ss. 112.906-112.934, Florida Statutes, is created
72 and entitled "State Employment."

73
74



Amendment No. 4

Remove lines 2915-2917 and insert:

harassment is a form of discrimination. Each state agency with authority to govern the terms and conditions of employment for its employees ~~The department~~ shall adopt uniform sexual harassment

Remove lines 2937-2938 and insert:

(2) Each state agency with authority to govern the terms and conditions of employment for its employees ~~The employing~~

Remove lines 3653-3656 and insert:

Section __. Section 112.934, Florida Statutes, is created to read:

Section 112.934 Rulemaking authority. -

(1) Except as provided in subsections (2) and (3), each state agency with authority to govern the terms and conditions of employment for its employees is authorized to adopt rules as necessary to implement the provisions of this part.

(2) The department is authorized to adopt rules as necessary to implement ss. 112.915, 112.916, 112.919, 112.922, 112.926, 112.927, 112.929, F.S.

(3) Except as may be specifically provided therein, no rulemaking is authorized for ss. 112.908, 112.917, 112.920, 112.921, and 112.925.

(4) On the effective date of this act, any rule adopted by the department that implements a statute incorporated into this part shall remain in force, and may be followed by any agency



Amendment No. 4

102 authorized to adopt rules under this section, until that agency
103 adopts a replacement rule.

104 Section 75. Part X of chapter 112, Florida Statutes,
105 consisting of ss. 112.940-112.953, Florida Statutes, is created
106 and entitled "State Administered Benefits."

107

108 Remove lines 3988-3992 and insert:

109 Section __. Section 112.953, Florida Statutes, is created
110 to read:

111 112.953 Definition; rulemaking authority.-

112 (1) For purposes of this part, "department" means the
113 Department of Management Services.

114 (2) The department is authorized to adopt rules as
115 necessary to implement the provisions of this part.

116 Section 89. Part IV of chapter 110, Florida Statutes, is
117 renumbered as part XI of chapter 112, Florida Statutes,
118 consisting of ss. 112.961-112.966, Florida Statutes, and is
119 renamed "State Volunteer Services."

120

121 Between lines 4147 and 4148, insert:

122 Section __. Section 112.966, Florida Statutes, is created
123 to read:

124 112.966 Rulemaking authority.-

125 Each state agency with authority to govern the terms and
126 conditions of employment for its employees is authorized to
127 adopt rules as necessary to implement the provisions of this
128 part. On the effective date of this act, any rule adopted by the
129 department that implements a statute incorporated into this part



Amendment No. 4

130 shall remain in force, and may be followed by any agency
131 authorized to adopt rules under this section, until that agency
132 adopts a replacement rule.

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T I T L E A M E N D M E N T

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Remove lines 2-3 and insert:

139

renaming ch. 110, F.S.; renaming part I of ch. 110, F.S.;

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141

Remove lines 20-110 and insert:

142

act; amending s. 110.1099, F.S.; revising provisions relating to

143

educational opportunities for employees; transferring,

144

renumbering, and amending s. 110.235, F.S.; revising provisions

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relating to training employees; amending s. 110.112, F.S.;

146

revising provisions relating to equal employment opportunities;

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creating s. 110.1135, F.S.; requiring state agencies to keep

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accurate records of work performed and leave; amending s.

149

110.116, F.S.; revising provisions relating to maintaining human

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resource information; amending s. 110.1245, F.S.; revising

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provisions relating to bonuses and other awards; amending s.

152

110.125, F.S.; revising provisions relating to payment for the

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administrative costs of operating the personnel program;

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amending s. 110.126, F.S.; revising provisions relating to the

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department's authority to administer oaths; amending s. 110.127,

156

F.S.; revising provisions relating to penalties; transferring,

157

renumbering, and amending s. 110.2037, F.S.; revising provisions



Amendment No. 4

158 relating to tax-sheltered and special compensation benefits;
159 transferring, renumbering, and amending s. 110.201, F.S.,
160 relating to personnel rules, records, and reports; deleting
161 provisions requiring the department, in consultation with
162 affected agencies, to develop certain personnel rules,
163 guidelines, records, and reports relating to employees and
164 positions in the career service; creating s. 110.184, F.S.;
165 revising provisions relating to the department's annual
166 workforce report; renaming part II of ch. 110, F.S.; creating s.
167 110.202, F.S.; providing a declaration of policy with respect to
168 the establishment of the Civil Service; amending s. 110.205,
169 F.S.; revising provisions relating to the list of positions that
170 are exempted from the Civil Service; creating s. 110.208, F.S.;
171 providing for a uniform classification system for civil service
172 positions; creating s. 110.2085, F.S.; providing a pay plan for
173 civil service positions; directing the department to adopt
174 rules; amending s. 110.211, F.S.; revising provisions relating
175 to recruitment; amending s. 110.213, F.S.; revising provisions
176 relating to selecting a candidate for employment; amending s.
177 110.2135, F.S.; revising provisions relating to veterans'
178 preference; amending s. 110.215, F.S.; revising provisions
179 relating to employing persons with disabilities; amending s.
180 110.217, F.S.; revising provisions relating to a change in an
181 employee's position status; amending s. 110.219, F.S.; revising
182 provisions relating to attendance and leave policies; amending
183 s. 110.221, F.S.; conforming provisions to changes made by the
184 act; amending s. 110.224, F.S.; revising provisions relating to
185 employee evaluation; amending s. 110.227, F.S.; revising

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Amendment No. 4

186 provisions relating to employee grievances; renumbering and
187 renaming part V of ch. 110, F.S.; transferring, renumbering, and
188 amending s. 110.601, F.S.; revising provisions relating to
189 selected exempt service policy; transferring, renumbering, and
190 amending s. 110.602, F.S.; revising provisions relating to the
191 creation of the Selected Exempt Service; transferring,
192 renumbering, and amending s. 110.605, F.S.; revising provisions
193 relating to the powers and duties of the department; creating s.
194 110.3023, F.S.; providing for the recruitment of selected exempt
195 service staff; renumbering and renaming part III of ch. 110,
196 F.S.; amending s. 110.401, F.S.; revising provisions relating to
197 policies for senior management employees; amending s. 110.402,
198 F.S.; revising provisions relating to the establishment of the
199 Senior Management Service; amending s. 110.403, F.S.; revising
200 provisions relating to the duties of the department with respect
201 to the Senior Management Service; creating s. 110.4035, F.S.;
202 providing recruitment requirements for senior management service
203 employees; creating part IX of ch. 112, F.S.; creating s.
204 112.906, F.S.;

205

206 Remove lines 180-181 and insert:
207 relating to state employment; creating s. 112.934, F.S.;
208 providing a definition; authorizing rulemaking; creating part X,
209 ch. 112, F.S.; transferring,

210

211 Remove lines 206-207 and insert:



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1261 (2012)

Amendment No. 4

212 penalties; creating s. 112.953, F.S.; authorizing the department
213 to adopt rules; transferring and renumbering part IV, ch. 112,
214 F.S.; transferring, renumbering,

215

216 Remove line 217 and insert:

217 F.S.; providing for penalties; creating s. 112.966, F.S.;
218 authorizing rulemaking; repealing s. 110.115,

219