



Journal of the Senate

Number 13

Thursday, April 26, 1979

The Senate was called to order by Senator Vogt for the purpose of conducting the order of business of introduction and reference of resolutions, memorials, bills and joint resolutions pursuant to Rule 4.3. Senator Henderson represented the Committee on Rules and Calendar and the Minority Party.

INTRODUCTION

By Senator MacKay—

SB 1274—A bill to be entitled An act relating to education; adopting a system of "pay-as-you-go" for financing authorized expenditures from the Public Education Capital Outlay and Debt Service Trust Fund; restricting the issuance of bonds pledging such funds; suspending the application and implementation of s. 235.435, Florida Statutes, for 5 years; requiring the Commissioner of Education to make certain calculations and allocations of funds for replacement of school buses; requiring the State Board of Education to provide, at least annually, a statewide pool purchase bid for school buses; requiring the Commissioner to make certain determinations relating to the annual allocation to each school district of funds for school equipment and repairs; restricting how district school boards expend such allocations; requiring the Commissioner to make certain determinations relating to the allocation of funds for emergency school construction; providing that such funds not used within a specified period of time revert to the state; prescribing uses for such funds; providing an effective date.

—was read the first time by title and referred to the Committees on Education and Ways and Means.

By Senator Williamson—

SB 1275—A bill to be entitled An act relating to the tax on cigarettes; adding s. 210.01(19), Florida Statutes; providing a definition of "manufacturer"; amending ss. 210.02(6), 210.04(8), (9), Florida Statutes; requiring cigarette manufacturers to pay the tax, except under certain conditions; amending s. 210.05(1),(3), Florida Statutes, 1978 Supplement; providing for the appointment of manufacturers as agents to buy or affix tax stamps; prohibiting the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation from selling tax stamps to other than manufacturers; amending s. 210.06(1),(2), Florida Statutes; requiring manufacturers to affix stamps; amending s. 210.08, Florida Statutes; requiring the filing of a bond by the manufacturer; amending s. 210.09(2), (3), Florida Statutes, 1978 Supplement; providing for the keeping and maintenance of certain records by the manufacturer; amending s. 210.11, Florida Statutes; providing for a refund of the tax under certain circumstances; amending s. 210.12(5), Florida Statutes; prohibiting certain sales of cigarettes; amending s. 210.13, Florida Statutes, 1978 Supplement; providing for determination of tax on failure to file return; amending s. 210.15(1)(c)-(f), (2), (4), Florida Statutes, 1978 Supplement; providing for the issuance of permits to manufacturers; amending s. 210.16, Florida Statutes, 1978 Supplement; providing for the revocation or suspension of permits; providing penalties; amending s. 210.18(2)-(4), Florida Statutes; providing penalties for tax evasion; creating s. 210.23, Florida Statutes; requiring the registration of cigarette brands; authorizing the division to adopt certain rules; repealing s. 210.07(1), (2), Florida Statutes, relating to metering machines; providing an effective date.

—was read the first time by title and referred to the Committees on Commerce and Ways and Means.

By Senator Vogt—

SB 1276—A bill to be entitled An act relating to acquisition of state lands; adding s. 20.25(2)(f), Florida Statutes; creating

the Division of State Lands within the Department of Natural Resources; reassigning the Bureau of State Lands to such division; reassigning the Bureau of Coastal and Land Boundaries to said division; prescribing powers and duties of said division; creating s. 253.025, Florida Statutes; requiring certain state agencies to follow prescribed procedures in acquisition of land; requiring title searches and appraisals prior to negotiations; requiring agreements for purchase to meet certain standards and to be subject to final action of the Board of Trustees of the Internal Improvement Trust Fund; requiring certain standards for gifts, grants, or bequests to the state; amending s. 258.23(1), Florida Statutes; requiring the Department of Natural Resources to follow land acquisition procedures prescribed in s. 253.025, Florida Statutes; amending s. 259.03, Florida Statutes; modifying the definition of state capital projects for environmentally endangered lands; modifying the definition of board; creating s. 259.035, Florida Statutes; creating a selection committee; prescribing the membership, powers, and duties of such committee; amending s. 259.04, Florida Statutes; requiring certain procedures for acquisition of environmentally endangered and outdoor recreational lands; authorizing the use of eminent domain in the acquisition of environmentally endangered lands; amending s. 375.031, Florida Statutes; requiring the Division of Recreation and Parks to follow land acquisition procedures prescribed in s. 253.025, Florida Statutes; amending s. 272.124, Florida Statutes; requiring the Division of Building Construction and Property Management to follow land acquisition procedures prescribed in s. 253.025, Florida Statutes; amending s. 589.07, Florida Statutes; requiring the Division of Forestry to follow land acquisition procedures prescribed in s. 253.025, Florida Statutes; providing an effective date.

—was read the first time by title and referred to the Committees on Natural Resources and Conservation and Ways and Means.

By Senator Spicola—

SB 1277—A bill to be entitled An act relating to motor vehicle insurance; amending s. 324.011, Florida Statutes; providing purpose; amending s. 324.021(1), (7), Florida Statutes; providing definitions; increasing the minimum amounts necessary for proof of financial responsibility; creating s. 324.026, Florida Statutes; requiring all owners and operators of motor vehicles in this state to be able, at all times, to prove financial responsibility; providing for suspension of licenses and registrations for violations; providing penalties; amending s. 324.051(1)(a), (2), Florida Statutes, 1978 Supplement; requiring a report of any accident in which the property damage exceeds \$200; deleting requirements for notice and hearing for license and registration suspensions; deleting certain grounds for exemption from the requirement that a license or registration be suspended; amending s. 324.071, Florida Statutes; making present reinstatement provisions effective if for any reason a driver license is suspended under certain sections; adding s. 324.181(2), Florida Statutes; requiring insurance companies to notify the department when an insured attempts to cancel a policy at any time other than the policy expiration date; providing for suspension of the license and registration of a person who has requested such cancellation until he proves financial responsibility; adding s. 325.19(8), Florida Statutes, 1978 Supplement; requiring all persons having a motor vehicle inspected to show proof of financial responsibility; providing an effective date.

—was read the first time by title and referred to the Committees on Commerce and Transportation.

By Senator McKnight—

SB 1278—A bill to be entitled An act relating to environmental permitting; creating part VIII, chapter 403, Florida

Statutes; providing legislative intent; providing definitions; prescribing certain powers and duties of the Department of Environmental Regulation relative to a centralized permitting system for certain projects needing permits from various state agencies; requiring an application fee; requiring the approval of local government entities prior to certain hearings; placing restrictions on any such local government entity after it has granted approval; requiring the department to request the Division of Administrative Hearings to designate a hearing officer to conduct certain hearings; prescribing procedures for such hearings; directing the department to furnish copies of certain applications to certain government entities; requiring the Division of State Planning to submit certain recommendations to the department relating to proposed projects; requiring certain water management districts to submit such recommendations to the department; directing the department to provide for certain studies; prescribing parties for certain proceedings for permit applications; providing that failure of any agency to file a notice of intent to be a party to such proceeding within a certain time shall constitute a waiver of the right of that agency to participate as a party in that proceeding and of its right to regulate, permit, or license certain projects; providing for intervention under certain circumstances at the discretion of the hearing officer; providing for action on the recommended order of the hearing officer by the Governor and Cabinet; authorizing the Governor and Cabinet to decide issues relating to the use, connection, or crossing of the properties and works of certain agencies; providing that any certification signed by the Governor for certain permit applications shall constitute the sole license of the state and any agency; requiring that any project so certified shall comply with certain rules adopted by the department; providing for variances, exceptions, and exemptions; providing for revocation or suspension of certification under certain circumstances; providing for judicial review; providing for enforcement, remedies, and penalties; providing for amendment or modification of certification; providing an effective date.

—was read the first time by title and referred to the Committees on Natural Resources and Conservation and Ways and Means.

By Senator Holloway—

SR 1279—A resolution requesting that the President of the Senate direct an appropriate Senate Committee to address itself to proposing an amendment to the Florida Thermal Efficiency Code.

—was read the first time by title and referred to the Committee on Rules and Calendar.

By Senator Maxwell—

SB 1280—A bill to be entitled An act relating to Brevard County; prohibiting the taking or attempting to take, except by specified nets or hook and line, of fish in manmade residential saltwater canals during certain periods; providing penalties; providing an effective date.

Proof of publication of the required notice was attached.

—was read the first time by title and referred to the Committee on Rules and Calendar.

By Senator McKnight—

SR 1281—A resolution honoring the Kiwanis Club of Little Havana for supporting and organizing "Calle Ocho"—Open House 8.

—was read the first time by title and referred to the Committee on Rules and Calendar.

By Senator Johnston (by request)—

SB 1282—A bill to be entitled An act relating to state personnel; designating the title of chapter 110, Florida Statutes, as State Personnel Management; creating Part I, chapter 110, Florida Statutes; providing the employment policy of the state and the general state employment provisions; creating part II, chapter 110, Florida Statutes; prescribing the Career Service System of state employment; creating part III, chapter 110, Florida Statutes; creating the Career Service Commission; creating part IV, chapter 110, Florida Statutes; providing for the Senior Management Advisory Committee and its composition; creating part

V, chapter 110, Florida Statutes; providing for volunteer service in state government; amending s. 112.171, Florida Statutes; removing the authority of the state to make employee wage deductions; repealing s. 110.022, Florida Statutes, relating to the powers and duties of the Department of Administration in personnel matters; repealing s. 112.041, Florida Statutes, as amended, relating to the prohibition of discrimination in state employment; repealing s. 112.045, Florida Statutes, relating to the prohibition of discrimination in county and municipal employment; preserving pending legal or administrative proceedings; providing severability; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations; Ways and Means Subcommittee E and the Committee on Ways and Means.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 533, HB 514 and HB 252 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Silver and others—

HB 514—A bill to be entitled An act relating to corporations; amending s. 607.034(3), Florida Statutes, requiring successor registered agents of corporations to file a written statement of acceptance with the Department of State; amending s. 607.324(2) and (3), Florida Statutes, requiring successor registered agents of foreign corporations to file such statements; repealing s. 607.037(3), Florida Statutes, allowing successor registered agents to be changed by filing the corporation's annual report; repealing s. 607.357(1)(g), Florida Statutes, stating the contents of a corporation's annual report; providing an effective date.

—was read the first time by title and referred to the Committee on Commerce.

By Representative M. E. Hawkins—

HB 252—A bill to be entitled An act relating to correctional officers; amending s. 843.01, Florida Statutes, 1978 Supplement, including county and municipal correctional officers within the list of officers whom it is a felony to resist with violence; amending s. 944.58(1), Florida Statutes, clarifying the definition of "correctional officer"; providing an effective date.

—was read the first time by title and referred to Ways and Means Subcommittee E and the Committee on Ways and Means.

By Representative Sample—

HB 533—A bill to be entitled An act relating to worthless checks and drafts; adding a new subsection (3) to s. 832.05, Florida Statutes, prohibiting the cashing or depositing of certain instruments at banks or depositories with intent to defraud; providing penalties; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Criminal.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

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| CS for HB 588 | HB 448 | HB 657 |
| | HB 493 | HB 604 |

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Community Affairs and Representatives Hattaway and Bell—

CS for HB 588—A bill to be entitled An act relating to manufactured building; amending ss. 553.35, 553.36, 553.37, 553.39, 553.40, 553.41, and 553.42, Florida Statutes, and s. 553.38, Florida Statutes, 1978 Supplement; providing a short title; providing definitions; providing for promulgation of rules and re-

quirements for manufactured building by the Department of Community Affairs; providing for the issuance of insignia denoting compliance with rules and requirements of the department; providing for state approval of manufactured buildings manufactured in other states with reciprocal standards; providing for the establishment of fees; providing for the delegation of enforcement authority; providing for the delegation of inspection authority; providing an exception to state approval for custom manufactured buildings; providing for the creation and provision of equal and uniform application of local rules and requirements to conventionally constructed and manufactured building; providing for injunctive relief; providing for an annual report; providing penalties for noncompliance; providing legislative intent; amending ss. 323.05(1)(d), 400.444, and 553.77(1)(b), (c), and (d), Florida Statutes, and s. 400.563, Florida Statutes, providing conformity; providing for conditional repeal of ss. 553.35-553.42, and 323.05(1)(d), Florida Statutes; providing for repeal of s. 553.77, Florida Statutes, and legislative review in accordance with the Sundown Act; providing for severability; providing an effective date.

—was read the first time by title and referred to the Committees on Economic, Community and Consumer Affairs; and Ways and Means.

By the Committee on Finance & Taxation—

HB 448—A bill to be entitled An act relating to taxation of motor and other fuels; amending s. 206.625, Florida Statutes, providing that municipal refunds may be paid on a quarterly basis; providing for submission of refund applications; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

By the Committee on Finance & Taxation—

HB 657—A bill to be entitled An act relating to taxation of motor fuels and special fuels; adding subsection (3) to s. 206.44, Florida Statutes, and amending s. 206.97, Florida Statutes; providing that when the Department of Revenue receives a bad check from certain distributors and restitution is not made, the distributor shall pay the appropriate tax to the supplier for a specified period of time; providing for audits in certain cases; providing an effective date.

—was read the first time by title and referred to the Committee on Ways and Means.

By the Committee on Finance & Taxation—

HB 493—A bill to be entitled An act relating to taxation; amending s. 198.01(2), Florida Statutes, and adding subsections (12), (13) and (14); providing definitions; creating ss. 198.021, 198.031 and 198.45, Florida Statutes; imposing a tax on generation-skipping transfers where the original transferor is a resident of the state or where the property transferred includes real or personal property in the state; providing for payment of the tax and for interest on delinquent or deficient taxes; amending ss. 198.08, 198.13 and 198.16, Florida Statutes; providing for filing of returns; providing for notice of increase or decrease in federal generation-skipping transfer tax and for collection of any deficiency; providing for rules; providing an effective date.

—was read the first time by title and referred to Ways and Means Subcommittee D and the Committee on Ways and Means.

By the Committee on Finance & Taxation—

HB 604—A bill to be entitled An act relating to intangible personal property tax; amending s. 199.023(7), Florida Statutes, to remove language requiring that the parent corporation in an affiliated group be incorporated or have its principal place of business in the state; providing an effective date.

—was read the first time by title and referred to the Committees on Commerce and Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1559 and requests the concurrence of the Senate.

Allen Morris, Clerk

By the Committee on Veterans Affairs and Representative Lockward and others—

HCR 1559—A concurrent resolution urging the Secretary of State to design, prepare, and present an award honoring the veterans from the State of Florida who rest in Arlington National Cemetery.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

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| HB 269 | HB 406 | HB 717 |
| HB 1149 | HB 1504 | HB 1513 |

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Hazouri—

HB 269—A bill to be entitled An act relating to the Jacksonville Transportation Authority; amending ss. 349.03, 349.04(2)(c), (f) and (h), and 349.041(2), Florida Statutes, providing for the removal of members of the authority; extending financial disclosure and conflict of interest provisions to said members; providing that any lease of real property by the authority shall be a public record; restricting the ability of the authority to sell land; providing that charges for services and facilities of the Jacksonville Expressway System may be increased or imposed only with approval of the council of the City of Jacksonville; providing an exception; providing certain bidding procedures; providing that the authority shall use the legal services of the City of Jacksonville; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

By Representative Hieber—

HB 406—A bill to be entitled An act relating to educational facilities; amending s. 235.26(5)(a), Florida Statutes, 1978 Supplement, to provide that approval of phase III documents relating to contracts for construction shall be effective for a 3-year period; providing an effective date.

—was read the first time by title and referred to the Committee on Education.

By the Committee on Transportation—

HB 717—A bill to be entitled An act relating to driver records and the reporting of judicial dispositions of traffic violations; amending s. 43.41, Florida Statutes, and s. 322.25(6), Florida Statutes, 1978 Supplement, authorizing clerks of the courts to submit data relating to traffic offense dispositions to the Department of Highway Safety and Motor Vehicles in an automated fashion; adding subsections (4)-(6) to s. 322.20, Florida Statutes, 1978 Supplement, requiring the department to promulgate rules and procedures for the automated reporting of traffic dispositions; requiring the department to publish statistics and provide records to court clerks; providing an effective date.

—was read the first time by title and referred to the Committees on Transportation and Ways and Means.

By the Committee on Transportation—

HB 1149—A bill to be entitled An act relating to the Department of Transportation; amending s. 338.21(2), Florida Statutes, 1978 Supplement; requiring the sharing of cost of maintenance of warning signals installed at railway-highway crossings; providing an effective date.

—was read the first time by title and referred to the Committees on Transportation, Commerce and Ways and Means.

By the Committee on Ethics & Elections—

HB 1504—A bill to be entitled An act relating to nonpartisan elections for judicial officers; repealing s. 105.09, Florida Statutes, relating to limitations on political activity on behalf of judicial candidates; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Civil.

By the Committee on Retirement, Personnel & Collective Bargaining and Representatives Hazouri and Fox—

HB 1513—A bill to be entitled An act relating to the use of state-owned vehicles by state officers and employees; creating s. 112.063, Florida Statutes, providing definitions; specifying policy regarding the use of vehicles; authorizing use of vehicles for certain purposes; providing penalties; providing for rules; requiring certain notices to be posted in vehicles; providing for conflicting laws; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations; Ways and Means Subcommittee E and the Committee on Ways and Means.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 1607 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Shackelford—

HCR 1607—A concurrent resolution commending the Governor of the State of Georgia for the assistance provided by his state in locating the body of Austin D. Gay.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 403 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative T. F. Lewis and others—

HCR 403—A concurrent resolution urging the United States Department of Transportation to adopt the symbols adopted by the National Fire Protection Association for display on all railroad cars transporting hazardous materials.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed by the required Constitutional three-fifths vote of the membership of the House, HJR 398 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representatives Ewing and A. E. Johnson—

HJR 398—A joint resolution proposing an amendment to Section 3 of Article III of the State Constitution relating to the Legislature.

—was read the first time by title and referred to the Committee on Rules and Calendar.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 504 and HB 729 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Mills—

HB 504—A bill to be entitled An act relating to public meetings; amending s. 236.26, Florida Statutes, decreasing the notice requirement for required accessibility of public meetings to the physically handicapped; providing an effective date.

—was read the first time by title and referred to the Committee on Economic, Community and Consumer Affairs.

By Representatives Price and Morgan—

HB 729—A bill to be entitled An act relating to the Florida Capitol Center Planning District; amending s. 272.12(2)(a) and (b), Florida Statutes, 1978 Supplement, providing new terms for members of the Capitol Center Planning Commission; providing for staggering of terms; providing for conditional repeal; providing an effective date.

—was read the first time by title and referred to the Committee on Governmental Operations.

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed—

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| HB 281 | HB 437 | HB 441 |
| HB 562 | HB 1132 | |

—and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Ward and others—

HB 281—A bill to be entitled An act relating to state roads; naming State Road 123 in honor of Roger J. Clary; directing the Department of Transportation to erect appropriate markers; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

By the Committee on Criminal Justice—

HB 437—A bill to be entitled An act relating to obstructing justice; amending s. 843.08, Florida Statutes; providing a penalty for falsely impersonating a parole and probation supervisor or officer employed by the Department of Corrections; providing an effective date.

—was read the first time by title and referred to the Committee on Judiciary-Criminal.

By the Committee on Criminal Justice—

HB 441—A bill to be entitled An act relating to criminal penalties; amending s. 775.087(2), Florida Statutes, relating to the possession or use of weapons in the commission of crimes; providing that persons sentenced thereunder are not qualified for the statutory gain-time provisions of chapter 944, Florida Statutes; providing an effective date.

—was read the first time by title and referred to the Committees on Corrections, Probation and Parole; and Ways and Means.

By Representative Myers—

HB 562—A bill to be entitled An act relating to bridge designation; designating and naming the bridge on State Road 714 spanning the St. Lucie River between the City of Stuart and the area known as Palm City in Martin County as the Palm City Bridge; providing for appropriate markers to be erected by the Department of Transportation; providing an effective date.

—was read the first time by title and referred to the Committee on Transportation.

By the Committee on Ethics and Elections—

HB 1132—A bill to be entitled An act relating to elections; amending s. 98.251, Florida Statutes, requiring the distribution of the election code to qualifying candidates only upon request; amending s. 106.22(2), Florida Statutes, providing for the

printing of manuals by the Division of Elections; providing an effective date.

—was read the first time by title and referred to the Committees on Judiciary-Civil and Ways and Means.

The Senate recessed to reconvene at 2:00 p.m.

The Senate was called to order by the President at 2:00 p.m. A quorum present—39:

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| Mr. President | Gorman | McClain | Steinberg |
| Anderson | Grizzle | McKnight | Stuart |
| Barron | Hair | Myers | Thomas |
| Carlucci | Henderson | Neal | Tobiassen |
| Chamberlin | Hill | Peterson | Trask |
| Childers, D. | Holloway | Poole | Vogt |
| Childers, W. D. | Jenne | Scarborough | Ware |
| Dunn | Johnston | Scott | Williamson |
| Fechtel | MacKay | Skinner | Winn |
| Frank | Maxwell | Spicola | |

Excused: Senator Gordon until 3:00 p.m.

Prayer by Rabbi Stanley J. Garfein, Temple Israel Synagogue:

Heavenly Father, we pray for the family, so battered by rapid change.

Help us to realize that we add not to family harmony, by manipulating our young people with regulations that intensify explosive resentment of their elders. Nor do we improve the family by creating conditions in which unparented children proliferate.

Cause us to understand that we contribute to family breakdown by prohibiting the conjugal visit in our prisons, and by separating therein the babe from its mother's breast.

Keep us from victimizing those who are not victims. Banish our conceit in judging matters of the bedroom to be business of the state. Stop us from creating punishments that are worse than the presumed crimes.

Let us conserve our energies so as to aid the real victims of our society: the poor, the aged, the handicapped, those victimized by crime, and those grossly underpaid in relation to their contribution to society, and those greatly underemployed in relation to their full potential.

Lord, enable us to strengthen the family by being supportive in areas where help is most needed.

Lord, show us the way to conserve, and not destroy; to aid, and not to victimize. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, April 26, 1979:

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| SB 54 | SB 179 | SB 148 | CS for SB 47 |
| SB 870 | SB 127 | SB 279 | |
| SB 871 | SB 267 | CS for SB 234 | |

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Agriculture recommends the following pass: SB 886 with 2 amendments

The bill was referred to the Committee on Commerce under the original reference.

The Committee on Transportation recommends the following pass: SB 933, SB 543

The bills were referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Commerce recommends the following pass: SB 563 with 5 amendments

The bill was referred to the Committee on Governmental Operations under the original reference.

The Committee on Natural Resources and Conservation recommends the following pass: SB 392

The Committee on Ways and Means recommends the following pass: SJR 375

The bills contained in the foregoing reports were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Natural Resources and Conservation recommends the following pass: SB 772 with 3 amendments

The Committee on Judiciary-Criminal recommends the following pass: SB 463

The bills contained in the foregoing reports were referred to Ways and Means Subcommittee E under the original reference.

The Committee on Commerce recommends the following pass: SB 132, SB 340 with 1 amendment

The Committee on Natural Resources and Conservation recommends the following pass:

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| CS for HB 141 with 1 amendment | SB 730 with 3 amendments |
| SB 711 with 3 amendments | |

The Committee on Transportation recommends the following pass: SB 866, SB 1095

The bills contained in the foregoing reports were referred to the Committee on Ways and Means under the original reference.

The Committee on Agriculture recommends the following pass:

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| SB 870 | SB 888 with 2 amendments |
| SB 871 | SB 893 |
| SB 881 with 2 amendments | |

The Committee on Commerce recommends the following pass:

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| CS for SB 81 with 1 amendment | SB 473 |
| SB 159 with 1 amendment | SB 476 |
| SB 246 | SB 525 |
| SB 250 | SB 546 |
| SB 354 with 2 amendments | SB 573 |
| CS for SB 367 | SB 693 with 3 amendments |

The Committee on Natural Resources and Conservation recommends the following pass:

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| HB 1150 with 2 amendments | SB 661 with 2 amendments |
| SB 424 | SB 955 |
| SB 429 | |

The Committee on Transportation recommends the following pass: SB 830, SB 934

The Committee on Ways and Means recommends the following pass:

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| CS for SB 131 | SB 362 with 3 amendments |
| SB 176 | SB 376 |
| CS for SB 209 with 2 amendments | HB 848 |

The Committee on Judiciary-Criminal recommends the following pass:

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| SB 371 with 2 amendments | SB 458 |
| HB 1514 with 2 amendments | SB 495 |

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Health and Rehabilitative Services recommends a Committee Substitute for the following: SB 680

The bill with Committee Substitute attached was referred to the Committee on Commerce under the original reference.

The Committee on Health and Rehabilitative Services recommends a Committee Substitute for the following: SB 325

The bill with Committee Substitute attached was referred to the Committee on Ways and Means under the original reference.

The Committee on Judiciary-Criminal recommends a Committee Substitute for the following: SB 229

The Committee on Judiciary-Criminal recommends a Committee Substitute for the following: SB 460

The Committee on Rules and Calendar recommends a Committee Substitute for the following: SJR 93

The bills with Committee Substitutes attached contained in the foregoing reports were placed on the calendar.

The Committee on Natural Resources and Conservation recommends the following not pass: SB 532

The Committee on Agriculture recommends the following not pass: SB 784

The Committee on Economic, Community and Consumer Affairs recommends the following not pass: SB 374, SB 548

The Committee on Judiciary-Criminal recommends the following not pass: SB 639

The bills contained in the foregoing reports were laid on the table.

The Committee on Economic, Community and Consumer Affairs recommends that the Senate confirm the following appointments made by the Governor:

Robert T. Mann, Tallahassee, Member of the Florida Public Service Commission for term ending January 1, 1982

John R. Marks, III, Tallahassee, Member of the Florida Public Service Commission, for term ending January 1, 1982

William T. Mayo, Tallahassee, Member of the Florida Public Service Commission, for term ending January 1, 1981

The Committee on Commerce recommends that the Senate confirm the following appointments made by the Governor:

R. B. Burroughs, Jr., Jacksonville, Secretary of Business Regulation, to serve at the Pleasure of the Governor

Sidney Levin, Miami, Secretary of Commerce, to serve at the Pleasure of the Governor

The appointments contained in the foregoing reports were referred to the Committee on Executive Business under the original reference.

REPORT OF SUBCOMMITTEE TO STANDING COMMITTEE

The Select Subcommittee of the Committee on Agriculture recommends no action be taken on SB 298 and SB 390. In lieu of taking action on these bills, the subcommittee recommends the full committee initiate a complete study during the interim jointly with the House Committee on Agriculture to be completed before December 1, 1979 placing emphasis on capital gains taxes and other issues related to foreign ownership of property in Florida.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Peterson, the rules were waived and Ways and Means Subcommittee B was granted permission to meet April 27 at 8:00 a.m. in lieu of 9:00 a.m.

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote SB 1044 was withdrawn from the Committees on Governmental Operations and Ways and Means and by two-thirds vote referred to the Committee on Commerce.

On motions by Senator Spicola, by two-thirds vote SB 934 was also referred to the Committee on Judiciary-Criminal.

On motion by Senator Barron, by two-thirds vote SB 709 was placed at the end of the special order calendar.

On motions by Senator Spicola, by two-thirds vote Senate Bills 524 and 534 were withdrawn from the committee of reference and indefinitely postponed.

On motion by Senator MacKay, the rules were waived and by two-thirds vote HB 308 was withdrawn from the Committee on Education.

On motion by Senator Don Childers, by two-thirds vote SB 430 was withdrawn from the committee of reference and indefinitely postponed.

On motions by Senator Tobiassen, by two-thirds vote Senate Bills 320 and 1269 were withdrawn from the committees of reference and indefinitely postponed.

On motions by Senator Stuart, by two-thirds vote SB 568 was withdrawn from the committees of reference and indefinitely postponed.

On motions by Senator Thomas, the rules were waived and by two-thirds vote Senate Bills 933, 139 and 202 were withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motions by Senator Carlucci, by two-thirds vote SB 459 was withdrawn from the committees of reference and indefinitely postponed.

REQUESTS FOR EXTENSION OF TIME

April 25, 1979

The Committee on Commerce requests an extension of 15 days for consideration of the following:

- SB 484 by Senator McKnight
- SB 751 by Senator Ware
- SB 757 by Senator McClain
- SB 758 by Senator McClain
- SB 764 by Senator Johnston
- SB 768 by Senator Scott
- SB 778 by Senator Scarborough
- SB 782 by Senator Maxwell
- SB 791 by Senator MacKay
- SB 797 by Senator McClain

April 25, 1979

The Committee on Corrections, Probation and Parole requests an extension of 15 days for consideration of the following:

- SB 158 by Senator Dunn
- SB 357 by Senator Fechtel
- SB 823 by Senator Carlucci

April 26, 1979

The Committee on Education requests an extension of 15 days for consideration of the following:

- SB 728 by Senator Williamson
- SB 732 by Senator Williamson
- SB 740 by Senator Frank
- SB 747 by Senator Steinberg
- SB 748 by Senator Steinberg
- SB 750 by Senator Carlucci
- SB 765 by Senator Poole

April 25, 1979

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following:

- SB 766 by Senator Poole
- SB 787 by Senator Barron
- SB 792 by Senator Tobiassen
- SB 796 by Senator Poole

April 25, 1979

The Committee on Judiciary-Criminal requests an extension of 15 days for consideration of the following:

- SB 684 by Senator Myers
- SB 700 by Senator Hill
- SB 701 by Senator Hill

April 26, 1979

The Committee on Natural Resources and Conservation requests an extension of 15 days for consideration of the following:

- SB 730 by Senator Peterson and others
- SB 746 by Senator Peterson and others

April 25, 1979

The Committee on Rules and Calendar requests an extension of 15 days for consideration of the following:

- SCR 427 by Senator D. Childers
- SJR 720 by Committee on Transportation
- SB 786 by Senator Chamberlin

SB 799 by Senator Dunn and others
SB 800 by Senator Dunn and others
SB 801 by Senator Dunn and others

The Committee on Ways and Means requests an extension of 15 days for consideration of the following:

| | |
|---|--|
| CS for SB 31 by Judiciary-Criminal Committee | SB 361 by Senator Peterson |
| SB 64 by Senator Steinberg | SB 364 by Senator Hair |
| SB 94 by Senator Dunn | SB 368 by Senator Spicola |
| CS for SB 95 by Corrections, Probation and Parole Committee | SB 379 by Senator Henderson |
| SB 97 by Senator McKnight | CS for SB 385 by Governmental Operations Committee |
| SB 101 by Senator Gordon | SB 409 by Senator Trask |
| SB 114 by Senator Gorman | SB 419 by Governmental Operations Committee |
| SB 135 by Senator Dunn | CS for SB 425 & 341 by Judiciary-Criminal Committee |
| SB 137 by Senator Dunn | CS for SB 431 by Corrections, Probation and Parole Committee |
| SB 138 by Senator Dunn | SB 451 by Senator Trask |
| SB 161 by Senator Tobiasen | SB 482 by Senator McKnight |
| CS for SB 162 by Economic, Community and Consumer Affairs Committee | SB 511 by Senator Carlucci |
| SJR 169 by Senator Neal | SB 521 by Senator Dunn |
| SB 195 by Senator Maxwell | SB 554 by Senators Hair and McClain |
| SB 198 by Senator Maxwell | SB 601 by Senator Myers |
| SB 200 by Senator Peterson | SB 604 by Senator Myers |
| SB 208 by Senator Henderson | SB 685 by Senators Henderson and Gordon |
| SB 211 by Senator Trask | SB 690 by Senator Dunn |
| SB 212 by Senator Maxwell | SB 691 by Senator Dunn |
| SB 236 by Senator Peterson | SB 698 by Senator Hair |
| SB 249 by Senator Holloway | SB 722 by Transportation Committee |
| SB 278 by Senator Henderson | SB 1096 by Senator Henderson |
| SB 284 by Governmental Operations Committee | SB 1099 by Senator Fechtel |
| SB 291 by Senator Holloway | SB 1143 by Senator Holloway |
| SB 296 by Senator McKnight | SJR 1220 by Senator Neal |
| SJR 300 by Senator Frank | |
| SB 303 by Senator Jenne | |
| SB 304 by Senator Jenne | |
| SB 305 by Senator Jenne | |
| SB 336 by Senator Ware | |
| SB 339 by Senator Thomas | |
| SJR 350 by Senator Skinner | |
| SB 353 by Senator Barron | |
| SB 355 by Senator McKnight | |
| SB 358 by Senator Henderson | |

April 25, 1979

Subcommittee D of the Ways and Means Committee requests an extension of 15 days for the consideration of the following:

| | |
|---|--------------------------------------|
| SJR 36 by Senator Henderson | SB 774 by Senator Holloway |
| SJR 57 by Senator Henderson | SB 809 by Senator Williamson |
| SB 58 by Senator Ware, et al | SB 898 by Senator Winn |
| CS for SB 113 by Committee on Agriculture | SB 1026 by Senator Thomas |
| SB 126 by Senator Trask | SB 1076 by Senator Peterson |
| SB 128 by Senator Fechtel | SB 1078 by Senators Stuart and Jenne |
| SB 129 by Senator Fechtel | SB 1083 by Senator Chamberlin |
| SB 150 by Senator Vogt | SB 1126 by Senator MacKay |
| SB 332 by Senator Spicola | SB 1131 by Senator Hair |
| SB 397 by Senator Peterson | SB 1182 by Senator Peterson |
| SB 512 by Senator Dunn | |
| SB 649 by Senator Tobiasen | |

April 25, 1979

Subcommittee E of the Ways and Means Committee requests an extension of 15 days for consideration of the following:

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|------------------------------|-----------------------------|
| SB 10 by Senator Dunn | SB 228 by Senator MacKay |
| SB 11 by Senator Dunn | SB 271 by Senator Thomas |
| SB 29 by Senator Peterson | SB 310 by Senator Carlucci |
| SB 55 by Senator Maxwell | SB 402 by Senator MacKay |
| SB 56 by Senator Vogt | SB 474 by Senator Steinberg |
| SB 79 by Senator Hair | SB 508 by Senator MacKay |
| SB 185 by Senator Johnston | SB 517 by Senator Johnston |
| SB 186 by Senator Johnston | SB 527 by Senator MacKay |
| SB 197 by Senator Maxwell | SB 528 by Senator Johnston |
| SB 210 by Senator Chamberlin | SB 538 by Senator McClain |
| | SB 561 by Senator Hill |

| | |
|--|---|
| CS for SB 566 by Judiciary-Criminal Committee and Senators Scott, Poole and Williamson | SB 1088 by Senator Spicola |
| SB 595 by Senator Tobiasen | SB 1117 by Senator Chamberlin |
| SB 731 by Senator Hill | SB 1118 by Senator Scarborough |
| SB 756 by Senator Trask | SB 1145 by Senator Johnston |
| SB 788 by Senator Chamberlin | SB 1151 by Senator Scarborough |
| SB 790 by Senator Scarborough | SB 1165 by Senator Stuart (by request) |
| SB 806 by Senator Tobiasen | SB 1211 by Senator Trask |
| SB 986 by Senator Scarborough | SB 1212 by Senator Johnston (by request) |
| SB 996 by Senator Maxwell | SB 1226 by Senator MacKay |
| SB 1020 by Senator Stuart | SB 1271 by Senator MacKay |
| SB 1072 by Senator Johnston (by request) | CS for HB 60 by Committee on Ethics & Elections and Representative Hieber |

APPOINTMENT

The President announced the appointment of Senator Skinner as a member of the Tobacco Advisory Council.

MESSAGES FROM THE GOVERNOR

The Governor advised that he had transmitted to the Secretary of State's Office Senate Bills 107, 108 and 73 which he had approved April 25.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Vogt—

SB 19—A bill to be entitled An act relating to county courts; amending s. 11.246(2)(c), Florida Statutes; providing that sets of Florida Statutes shall be furnished to county courts upon certification of need; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 10, INSERT

Section 1. Subsection (1) of section 11.246, Florida Statutes, is amended to read:

11.246 Distribution of free copies.—

(1) *Two sets of the Florida Statutes and any supplementary matter thereto shall be furnished free to members of the Senate and House of Representatives, to the Secretary of the Senate and Clerk of the House of Representatives, and to the Sergeants at Arms of the Senate and House of Representatives. One set of Florida Statutes and any supplementary matter thereto shall be furnished free only to the officials specifically designated:*

~~(a) To members of the Senate and House of Representatives, to the Secretary of the Senate and Clerk of the House of Representatives, and to the Senate and House of Representatives. (renumber remaining sections accordingly)~~

Title Amendment 2—On page 1, line 2, strike all of line 2 and insert: An act relating to the Florida Statutes; amending s. 11.246(1), Florida Statutes, providing two free sets of the Florida Statutes and supplementary matter to members and certain officers of the Legislature; amending s.

Senator Vogt moved the following amendment to House Amendment 1 which was adopted:

Amendment 1—On page 1, strike all of lines 3-6 and insert:

~~(a) To members of the Senate and House of Representatives, to the Secretary of the Senate and Clerk of the House of Representatives, and to the Sergeants at Arms of the Senate and House of Representatives;~~

- (a)(b) To the Governor and the cabinet officers of the state;
- (b)(e) To the Justices of the Florida Supreme Court and the judges of the Florida court system;
- (c)(d) To the prosecuting officers in the Florida court system and their assistants; the Public Defenders and their assistants; the clerks of the circuit court; the sheriffs; the property appraisers; the tax collectors; the superintendents of schools; and the supervisors of elections; and
- (d)(e) To the Justices of the Supreme Court of the United States; Judges of the Fifth Circuit Court of Appeals of the United States; Federal District Judges residing within the state; the Attorney General of the United States; the United States District Attorneys and assistants within the state; and the Florida Senators and Representatives in Congress.

On motion by Senator Vogt, the Senate concurred in House Amendment 1 as amended and the House was requested to concur in the Senate amendment to the House amendment.

On motion by Senator Vogt, the Senate concurred in House Amendment 2.

SB 19 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Hair | McKnight | Stuart |
| Anderson | Henderson | Neal | Thomas |
| Barron | Hill | Peterson | Tobiassen |
| Childers, D. | Holloway | Poole | Trask |
| Childers, W. D. | Jenne | Scarborough | Vogt |
| Dunn | Johnston | Scott | Ware |
| Fechtel | MacKay | Skinner | Winn |
| Gorman | Maxwell | Spicola | |
| Grizzle | McClain | Steinberg | |

Nays—3

| | | |
|------------|-------|------------|
| Chamberlin | Frank | Williamson |
|------------|-------|------------|

Vote after roll call:

Yea—Myers

The Honorable Philip D. Lewis, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for SB 188 as amended by the Conference Committee Report.

Allen Morris, Clerk

By direction of the President the following Conference Committee Report was read:

CONFERENCE COMMITTEE REPORT ON CS FOR SB 188

*Honorable Philip D. Lewis
President of the Senate*

*Honorable J. Hyatt Brown
Speaker of the House*

Gentlemen:

Your Conference Committee on the disagreeing votes of the two Houses on Committee Substitute for SB 188 same being:

A bill to be entitled An act relating to workmen's compensation; amending s. 440.01, Florida Statutes; redesignating the Workmen's Compensation Law as the Workers' Compensation Law; amending s. 440.02(2)(b), (d), (7), (8), (18), Florida Statutes, 1978 Supplement, and adding subsections (21), (22) to said section; providing definitions; amending s. 440.021, Florida Statutes; conforming language; amending s. 440.10(1), Florida Statutes; prescribing when employees of subcontractors are deemed to be employed by the contractor; amending s. 440.11(2), Florida Statutes, 1978 Supplement; conforming language; amending s. 440.12, Florida Statutes, 1978 Supplement; prescribing the maximum weekly compensation rate; establishing

maximum monthly rates for wage-loss benefits; amending s. 440.13(1), (3)(a), Florida Statutes, 1978 Supplement; limiting payments for health care services; conforming language; adding s. 440.14(8), Florida Statutes; providing for the determination of an employee's average monthly wage; amending s. 440.15(1)(a), (b), (d), (e), (2)(a), (b), (3), (4), (5), (10)(a), (11), Florida Statutes, 1978 Supplement; prescribing the compensation rate for permanent total disability and for temporary total disability; providing that no compensation for permanent total disability shall be payable under certain circumstances; providing wage-loss benefits for a permanently and totally disabled employee who reestablishes an earning capacity; providing impairment benefits for certain permanent impairments; requiring that the division adopt an impairment schedule; providing wage-loss benefits for permanent impairments and establishing burden of proof requirements and termination of entitlement thereto; providing that benefits for temporary partial disability shall be based on actual wage loss; providing for the determination of compensation when a subsequent injury occurs; providing that certain federal benefits to an employee's dependents shall reduce the employee's compensation benefits under certain circumstances; precluding the payment of temporary total and permanent total disability benefits to an employee receiving unemployment compensation benefits; providing that unemployment compensation benefits are primary and wage-loss benefits are secondary; amending s. 440.151(1)(a), (d), (e), Florida Statutes; conforming language; amending s. 440.185(7), Florida Statutes, 1978 Supplement, and adding subsection (10) to said section; prescribing the time within which a carrier must file notice of a new policy; requiring the employee to report compensable wage loss to the carrier; requiring the division to verify the report upon request; requiring that the division adopt rules thereto; amending s. 440.19, Florida Statutes; requiring a request for hearing for compensation, for remedial attention, or for death benefits be filed within a certain time; providing that no statute of limitation applies to the right for remedial attention relating to prosthetic devices; prescribing contents of such requests; requiring an employer or carrier to furnish certain information; amending s. 440.20, Florida Statutes, 1978 Supplement; providing time limits for payments of compensation for temporary disability or death, and for impairment benefits and wage-loss benefits; providing that temporary disability or death benefits shall be paid weekly or biweekly except when the judge of industrial claims determines otherwise; reducing the penalty for late payments; prohibiting entry of order discharging an employer's liability prior to six months after employee reaches maximum medical improvement; prescribing procedures with respect to hearings relating to the discharge of the employer's liability; providing an employer with certain rights with respect to hearings relating to the discharge of the employer's liability; amending s. 440.25(1)-(3), (4)(b), (c), Florida Statutes, 1978 Supplement; establishing procedures with respect to hearings and requests therefor; requiring notice of filed request for hearing to be personally served or sent by certified mail; requiring that a hearing be held within 90 days of a filed request for hearing; requiring notice of order of hearing to be sent by certified mail; precluding findings of impairment in excess of the greatest impairment rating given the claimant by any physician; deleting references to awards for diminution of wage-earning capacity; conforming language; amending s. 440.26, Florida Statutes; providing when certain presumptions apply; amending ss. 440.30, 440.31, 440.32, Florida Statutes; conforming language; amending s. 440.34, Florida Statutes, 1978 Supplement; deleting attorney's fee schedule; requiring approval of payments to attorneys; requiring the claimant to pay 100 percent of his attorney's fees; providing exceptions; amending s. 440.37(2)(f), Florida Statutes, 1978 Supplement; conforming language; amending s. 440.38(1), (5), Florida Statutes, 1978 Supplement; imposing conditions to be met by self-insurers; authorizing the adoption of rules imposing conditions upon such self-insurers; providing a civil penalty for failure of a self-insurer to file certain reports; amending s. 440.39(1), Florida Statutes; conforming language; amending s. 440.44(2), (3)(a), Florida Statutes, 1978 Supplement; conforming language; amending s. 440.49, Florida Statutes, 1978 Supplement; providing for the rehabilitation of injured employees; limiting liability for subsequent injury through the Special Disability Trust Fund; amending ss. 440.50(1)(a), 440.51(5), (8), 440.52(2), Florida Statutes; conforming language; amending s. 440.57, Florida Statutes, 1978 Supplement; requiring the division to adopt rules permitting two or more employers to qualify as a group self-insurer's fund; authorizing the adoption of rules regulating such funds and the imposition of civil penalties; amending s. 440.58, Florida Statutes; amending s. 440.59, Flor-

ida Statutes, 1978 Supplement; conforming language; amending s. 627.151, Florida Statutes; prohibiting the Department of Insurance from approving an experience rating plan unless such plan contains certain provisions; creating s. 624.433, Florida Statutes; prohibiting excessive profits for workers' compensation and employer's liability insurance; requiring insurance carriers writing workers' compensation for employers in this state to maintain a claims adjusting office in this state; providing for review of health care and health services provided, by certain persons, pursuant to the workers' compensation laws; requiring persons providing such care or services to repay the amount received therefor under certain circumstances; amending s. 624.435 (1), (3), Florida Statutes, 1978 Supplement; requiring insurers to report on a certain basis with respect to reinsurance; requiring that reports include information for specified time periods and providing due dates and development stages therefor; amending various provisions of the Florida Statutes; conforming language; creating within the Department of Insurance a Workers' Compensation Rating Bureau; exempting the acquisition of certain data processing equipment and services from the provisions of part I of chapter 287, Florida Statutes; reviving and readopting chapter 440, Florida Statutes, as amended; repealing s. 440.13(3)(d), Florida Statutes, 1978 Supplement, which prescribes the statute of limitation for the right to remedial attention; repealing s. 562-132, Florida Statutes, 1978 Supplement, relating to classifying musicians and other entertainers as independent contractors for purposes of workmen's compensation; requiring a 21% reduction of rates for workers' compensation and employers liability insurance upon the effective date of this act; providing a retroactive effective date.

having met, and after full and free conference do recommend to their respective Houses as follows:

1. That the House recede from the House Amendments to Committee Substitute for Senate Bill 188.
2. That the House and Senate adopt the Conference Committee Amendments to Committee Substitute for Senate Bill 188 attached hereto and by reference made a part of this report.
3. That the House and Senate pass Committee Substitute for Senate Bill 188, as passed by the Senate, and as amended by said Conference Committee Amendments.

Kenneth H. MacKay, Jr.
Chairman
Dempsey J. Barron
David H. McClain
Pat Thomas
John T. Ware

William E. Sadowski
Samuel P. Bell, III
Tom Gallagher
C. Fred Jones
Jon Mills

Managers on the part of the Senate Managers on the part of the House of Representatives

Conference Committee Amendment 1—On page 6, line 25, strike everything after the enacting clause and insert: Section 1. Section 440.01, Florida Statutes, is amended to read:

440.01 Short title.—This chapter may be cited as the "Workers' ~~Workmen's~~ Compensation Law."

Section 2. Paragraphs (b) and (d) of subsection (2), and subsections (7), (8), (12), and (18) of section 440.02, Florida Statutes, 1978 Supplement, are amended, and subsections (21) and (22) are added to said section to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(2) "Employee."

(b) The term "employee" shall include any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous. However, any officer of a corporation may elect to be exempt from coverage under this chapter by filing written certification of the election with the division as provided in s. 440.05. *The term "employee" shall not include any officer of a corporation who elects to be exempt from coverage under this chapter.* Services shall be presumed to have been rendered the corporation in cases where such officer is compensated by other than dividends upon shares of stock of such corporation owned by him.

(d) The term "employee" shall not include:

1. An independent contractor, including:

a. An individual who agrees in writing to perform services for a person or corporation without supervision or control as a real estate salesman or agent, if such service by such individual for such person or corporation is performed for remuneration solely by way of commission;

b. *Bands, orchestras, and musical and theatrical performers, including disc jockeys, performing in licensed premises as defined in chapter 562, provided that a written contract evidencing an independent contractor relationship is entered into prior to the commencement of such entertainment;*

2. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer; or

3. A volunteer who falls into one of the following categories:

a. Volunteers who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency *or, in the event that such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division.*

b. Volunteers participating in federal programs established pursuant to Pub. L. No. 93-113.

(7)(a) The term "carrier" means any person or fund authorized under s. 440.38 to insure under this chapter and includes self-insurers.

(b) The term "self-insurer" means:

1. Any employer who has secured payment of compensation pursuant to s. 440.38(1)(b) or (6) as an individual self-insurer; or

2. Any employer who has secured payment of compensation through a group self-insurer pursuant to s. 440.57; or

3. Any group self-insurer established pursuant to s. 440.57.

(8)(a) The term "commission" means the Industrial Relations Commission within the Department of Labor and Employment Security ~~Commerce~~.

(b) The term "division" means the Division of Workers' Compensation ~~Labor~~ of the Department of Labor and Employment Security ~~Commerce~~.

(12) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer, only when such gratuities are received with the knowledge of the employer. In employment in which an employee receives consideration other than cash as a portion of this compensation, the value of such compensation shall be subject to the determination of the *deputy commissioner judge of industrial claims*.

(18) "Accident" means only an unexpected or unusual event or result, happening suddenly. A mental or nervous injury due to fright or excitement only or disability or death due to the accidental acceleration or aggravation of a venereal disease or of a disease due to the habitual use of alcohol or narcotic drugs, shall be deemed not to be an injury by accident arising out of the employment. Where a preexisting disease or anomaly is accelerated or aggravated by accident arising out of and in the course of employment *and resulting in death, only acceleration of death or the acceleration or aggravation of disability reasonably attributable to the accident shall be compensable. with respect to permanent disability or death. Compensation for temporary disability and medical benefits provided by this chapter shall not be subject to apportionment under this subsection.*

(21) The term "permanent impairment" means any anatomic or functional abnormality or loss, existing after the date of maximum medical improvement, which results from the injury.

(22) The term "date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated based upon reasonable medical probability.

Section 3. Section 440.021, Florida Statutes, is amended to read:

440.021 Exemption of workers' ~~workmen's~~ compensation from chapter 120.—~~Workers' Workmen's~~ compensation adjudications by ~~deputy commissioners judges of industrial claims~~ and the Industrial Relations Commission are exempt from chapter 120, and neither the ~~deputy commissioners judges of industrial claims~~ nor the Industrial Relations Commission shall be considered an agency or a part thereof, and advisory opinions of the division pursuant to s. 440.19(1) as to the entitlement of an employee or his dependents to benefits under this chapter are exempt from chapter 120. In all instances in which the division institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment, and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest, and after such investigation as may be necessary, the division shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the division does not agree with the protest, it shall refer the matter to the deputy commissioner for determination pursuant to s. 440.25(3) and (4).

Section 4. Section 440.06, Florida Statutes, is amended to read:

440.06 Failure to secure compensation; effect.—Every employer who fails to secure the payment of compensation under this chapter as provided in s. 440.38 may not, in any suit brought against him by an employee subject to this chapter to recover damages for injury or death, defend such a suit on the grounds that the injury was caused by the negligence of a fellow servant, that the employee assumed the risk of his employment, or that the injury was due to the ~~comparative contributory~~ negligence of the employee.

Section 5. Subsection (1) of section 440.10, Florida Statutes, is amended to read:

440.10 Liability for compensation.—

(1) Every employer coming within the provisions of this chapter, including any brought within the chapter by waiver of exclusion or of exemption, shall be liable for and shall secure the payment to his employees, or any physician, ~~or~~ surgeon, or pharmacist providing medical services under the provisions of s. 440.13, of the compensation payable under ss. 440.13, 440.15, and 440.16. In case a contractor sublets any part or parts of his contract work to a subcontractor or subcontractors, all of the employees of such contractor and subcontractor or subcontractors who have three or more employees engaged on such contract work shall be deemed to be employed in one and the same business or establishment, and the contractor shall be liable for and shall secure the payment of compensation to all such employees, except to employees of a subcontractor who has secured such payment or who is exempt. A subcontractor who employs fewer than three employees shall certify in writing to the contractor that such subcontractor and its employees are exempt from coverage under this chapter. A subcontractor is not liable for the payment of compensation to the employees of another subcontractor on such contract work and is not protected by the exclusiveness of liability provisions of s. 440.11 from action at law or in admiralty on account of injury of such employee of another subcontractor.

Section 6. Section 440.11, Florida Statutes, 1978 Supplement, is amended to read:

440.11 Exclusiveness of liability.—

(1) The liability of an employer prescribed in s. 440.10 shall be exclusive and in place of all other liability of such employer to any third-party tortfeasor and to the employee, the legal representative thereof, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this chapter, an injured employee, or the legal representative thereof in case

death results from the injury, may elect to claim compensation under this chapter or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by negligence of a fellow servant, that the employee assumed the risk of the employment, or that the injury was due to the ~~contributory negligence or~~ comparative negligence of the employee. The same immunities from liability enjoyed by an employer shall extend as well to each employee of the employer when such employee is acting in furtherance of the employer's business and the injured employee is entitled to receive benefits under this chapter. Such fellow-employee immunities shall not be applicable to an employee who acts, with respect to a fellow employee, with willful and wanton disregard or unprovoked physical aggression or with gross negligence when such acts result in injury or death or such acts proximately cause such injury or death, nor shall such immunities be applicable to employees of the same employer when each is operating in the furtherance of the employer's business but they are assigned primarily to unrelated works within private or public employment.

(2) An employer's workers' ~~workmen's~~ compensation carrier, service agent, or safety consultant shall not be liable as a third party tortfeasor for assisting the employer in carrying out the employer's rights and responsibilities under this chapter by furnishing any safety inspection, safety consultative service, or other safety service incidental to the workers' ~~workmen's~~ compensation or employers' liability coverage or to the workers' ~~workmen's~~ compensation or employer's liability servicing contract. The exclusion from liability under this subsection shall not apply in any case in which injury or death is proximately caused by the willful and unprovoked physical aggression, or by the negligent operation of a motor vehicle, by employees, officers, or directors of the employer's workers' ~~workmen's~~ compensation carrier, service agent, or safety consultant.

Section 7. Section 440.12, Florida Statutes, 1978 Supplement, is amended to read:

440.12 Time for commencement and limits on weekly and monthly rate of compensation.—

(1) No compensation shall be allowed for the first 7 days of the disability, except benefits provided for in s. 440.13; however, if the injury results in disability of more than 14 days, compensation shall be allowed from the commencement of the disability. All weekly compensation payments, except for the first payment week, shall be paid by check.

(2) Compensation for disability resulting from injuries which occur after December 31, 1974, shall not be less than \$20 per week. However, if the employee's wages at the time of injury are less than \$20 per week, he shall receive his full weekly wages. If his wages at the time of the injury exceed \$20 per week, compensation shall not exceed an amount per week which is:

(a) Equal to 100 ~~66 2/3~~ percent of the statewide average weekly wage, determined as hereinafter provided for the year in which the injury occurred, provided, however, that the increase to 100 percent from 66 ²/₃ percent of the statewide average weekly wage shall apply only to injuries occurring on or after July 1, 1979, and

(b) Adjusted to the nearest dollar.

For the purpose of this subsection, the "statewide average weekly wage" means the average weekly wage paid by employers subject to the Florida Unemployment Compensation Law as reported to the department for the four calendar quarters ending each June 30, which average weekly wage shall be determined by the department on or before November 30 of each year and shall be used in determining the maximum weekly compensation rate with respect to injuries occurring in the calendar year immediately following. The statewide average weekly wage determined by the department shall be reported annually to the Legislature.

(3) Monthly wage-loss benefits shall not exceed 4.3 times the maximum weekly benefit as computed pursuant to subsection (2).

(4) ~~(3)~~ The provisions of this section as amended effective July 1, 1951, shall govern with respect to disability due to injuries suffered prior to July 1, 1959. The provisions of this section as amended effective July 1, 1959, shall govern with respect to disability due to injuries suffered after June 30,

1959, and prior to January 1, 1968. The provisions of this section as amended effective January 1, 1968, shall govern with respect to disability due to injuries suffered after December 31, 1967, and prior to July 1, 1970. The provisions of this section as amended effective July 1, 1970, shall govern with respect to disability due to injuries suffered after June 30, 1970, and prior to July 1, 1972. The provisions of this section as amended effective July 1, 1972, shall govern with respect to disability due to injuries suffered after June 30, 1972, and prior to July 1, 1973. The provisions of this section, as amended effective July 1, 1973, shall govern with respect to disability due to injuries suffered after June 30, 1973, and prior to January 1, 1975.

Section 8. Subsections (1), (2), and (3) of section 440.13, Florida Statutes, 1978 Supplement, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(1) Subject to the limitations specified in *s. 440.19(2)(b)* ~~paragraph (3)(b)~~, the employer shall furnish to the employee such remedial treatment, care, and attendance under the direction and supervision of a qualified physician or surgeon, or other recognized practitioner, nurse, or hospital, and for such period as the nature of the injury or the process of recovery may require, including medicines, crutches, artificial members, and other apparatus. If the employer fails to provide the same after request by the injured employee, such injured employee may do so at the expense of the employer, the reasonableness and the necessity to be approved by a *deputy commissioner judge of industrial claims*. The employee shall not be entitled to recover any amount personally expended for such treatment or service unless such employee shall have requested the employer to furnish the same and the employer shall have failed, refused, or neglected to do so or unless the nature of the injury required such treatment, nursing, and services and the employer or the superintendent or foreman thereof, having knowledge of such injury, shall have neglected to provide the same; nor shall any claim for medical, surgical, or other remedial treatment be valid and enforceable unless within 10 days following the first treatment (except in cases where first-aid only is rendered), and thereafter at such intervals as the division by regulation may prescribe, the physician or other recognized practitioner giving such treatment or treatments furnishes to the division and to the employer, or to the carrier if the employer is not self-insured, a report of such injury and treatment on forms prescribed by the division, provided that a *deputy commissioner judge of industrial claims* for good cause may excuse the failure of the physician or other recognized practitioner to furnish any report within the period prescribed and may order the payment to such employee of such remuneration for treatment or service rendered as the *deputy commissioner judge of industrial claims* finds equitable. Along with such reports, the physician or other recognized practitioner shall furnish a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained. Said sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, that the facts alleged are true, to the best of my knowledge and belief, and that the treatment and services rendered were reasonable and necessary with respect to the bodily injury sustained." All medical reports obtained or received by the employer, the carrier, or the injured employee, or the attorney for any of them, with respect to the remedial treatment, care, and attendance of the injured employee, including reports of every examination, diagnosis, or disability evaluation, shall be filed with the *Division Bureau of Workers' Workmen's Compensation* within 5 days after receipt of same. A medical report not previously filed with the *division bureau* shall not be received in evidence in a contested case unless the party offering same has furnished a copy thereof to the opposing party or his attorney at least 5 days prior to the hearing at which it is offered. The physician shall also furnish to the injured employee, or to his attorney, on demand, a copy of each such report without charge to the injured employee, except actual cost to the physician or hospital furnishing same.

(2) If an injured employee objects to the medical attendance furnished by the employer, it shall be the duty of the employer to select another physician to treat the injured employee unless a *deputy commissioner judge of industrial claims* determines that a change in medical attendance is not for the best interests of the injured employee; provided that a *deputy commissioner judge of industrial claims* may at any time, for good cause shown, in the *deputy commissioner's judge's* discretion, order a change in such remedial attention, care, or

attendance. It shall be unlawful for any employer or representative of any insurance company or insurer to coerce or attempt to coerce a sick or injured employee in the selection of a physician, or surgeon or other attendant or remedial treatment, nursing or hospital care, or any other service that the sick or injured employee may require; and any employer or representative of any insurance company or insurer who violates this provision shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) (a) All fees and other charges for such treatment or service, including treatment or service *provided by* ~~at~~ any hospital or other health care provider, shall be limited to such charges as prevail in the same community for similar treatment of injured persons of like standard of living and shall be subject to *regulation regulations* by the division, which shall adopt schedules of *maximum* charges for such treatment or services. *An individual health-care provider shall be paid either his usual and customary charge for a treatment or service, or the maximum charge, whichever is less. A hospital shall be paid the lowest charge currently assessed for such treatment or service in the community in which the hospital is located.*

(b) There is hereby created an advisory committee to aid and assist the Department of *Labor and Employment Security Commerce* in adopting schedules of maximum charges for hospital treatment and services payable through *workers' workmen's* compensation benefits, to be appointed by and serve at the pleasure of the Secretary of *Labor and Employment Security Commerce*.

(c) The Division of *Workers' Compensation Labor* of the Department of *Labor and Employment Security Commerce* shall be empowered to investigate hospitals and medical practitioners to determine if they are in compliance with the schedule of charges adopted by the division or if they are requiring unjustified treatment, hospitalization, or office visits. If the division finds that the hospital or medical practitioner has made such excessive charges or required such treatment, hospitalization, or visits, the hospital or medical practitioners shall not receive payment under this chapter from a carrier, employer, or employee for the excessive fees or unjustified treatment, hospitalization, or visits, and, furthermore, the hospital or medical practitioner shall be liable to return to the carrier or self-insurer any such fees or charges already collected.

(d)1. *As used in this subsection:*

a. "*Utilization review*" means the initial evaluation of appropriateness in terms of both the level and the quality of health care and health services provided a patient based on medically accepted standards. Such evaluation is accomplished by means of a system which identifies the utilization of medical services above the usual range of utilization for such services based on medically accepted standards, and which refers instances of possible inappropriate utilization to a peer review committee.

b. "*Peer review*" means an evaluation by a peer review committee, after utilization review, of the appropriateness, quality, and cost of health care and health services provided a patient based on medically accepted standards.

c. "*Peer review committee*" means a committee composed of health-care providers licensed under the same authority as the health-care provider who rendered the services being reviewed.

d. "*Health-care provider*" means a physician licensed under chapter 458, an osteopath licensed under chapter 459, a chiropractor licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466.

2. *The division shall develop and implement, or contract with a qualified entity to develop and implement, utilization review of the services rendered by a health-care provider, which services are paid for in whole or in part pursuant to chapter 440.*

3. *The division shall contract with a private nonprofit medical foundation to provide peer review of health-care services rendered pursuant to chapter 440. Under the terms of such contract, the foundation shall establish and maintain a procedure by which a peer review committee shall review the services rendered by a health-care provider, which services are paid for in whole or in part pursuant to chapter 440. Such review shall occur upon referral by the entity responsible for utilization review to the foundation of reliable information that a*

health-care provider is rendering services in a manner which may be inappropriate with respect to either the level or the quality of care. The report and recommendations of the peer review committee shall be submitted to the division for such action as may be necessary in accordance with this section.

4. By accepting payment pursuant to chapter 440 for remedial treatment rendered to an injured employee, a health-care provider shall be deemed to consent to submitting all necessary records and other information concerning such treatment to utilization review and peer review as provided by this section. Such health-care provider shall further agree to comply with any decision of the division pursuant to subparagraph 5.

5. If it is determined that a health-care provider improperly overutilized or otherwise rendered or ordered inappropriate medical treatment or services, or that the cost of such treatment or services was inappropriate, the division may require such health-care provider to repay the amount which was paid for the rendering or ordering of such treatment or services. In addition, the division shall provide the licensing board of the health-care provider with full documentation of such determination. Any such determination by the division shall be reviewable in accordance with the provisions of ss. 120.57 and 120.63, upon written notice submitted by the health-care provider within 30 days of such determination.

6. The provisions of s. 768.40 shall apply to any officer, employer, or agent of the division, and to any officer, employer, or agent of any entity with which the division has contracted pursuant to this section.

(d) All rights for remedial attention under this section shall be barred unless a claim therefor is filed with the division within 2 years after the time of injury, except that if payment of compensation has been made or remedial attention has been furnished by the employer without an award on account of such injury a claim may be filed within 2 years after the date of the last payment of compensation or within 2 years after the date of the last remedial attention furnished by the employer, and all rights for remedial attention under this section pursuant to the terms of an award shall be barred unless a further claim therefor is filed with the division within 2 years after the entry of such award, except that if payment of compensation has been made or remedial attention has been furnished by the employer under the terms of the award a further claim may be filed within 2 years after the date of the last payment of compensation or within 2 years after the date of the last remedial attention furnished by the employer.

Section 9. Subsection (8) is added to section 440.14, Florida Statutes, to read:

440.14 Determination of pay.—Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined subject to limitations of s. 440.12(2) as follows:

(8) The average monthly wages of the injured employee at the time of the injury shall be 4 1/3 times the average weekly wage determined pursuant to this section.

Section 10. Paragraphs (a), (b), (d), and (e) of subsection (1), subsections (2), (3), (4), (5), and (11) and paragraph (a) of subsection (10) of section 440.15, Florida Statutes, 1978 Supplement, are amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(a) In case of total disability adjudged to be permanent, 66 2/3 percent of the average weekly wages shall be paid to the employee during the continuance of such total disability.

(b) Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, or paraplegia or quadriplegia shall, in the absence of conclusive proof of a substantial earning capacity to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts. In such other cases, no compensation shall be payable under paragraph (a) if the employee is engaged in, or is physically capable of en-

gaging in, gainful employment, and the burden shall be upon the employee to establish that he or she is not able uninterruptedly to do even light work due to physical limitation.

(d) If an employee who is being paid compensation for permanent total disability shall become rehabilitated to the extent that he shall establish an earning capacity, by employment he shall be paid during the period of such employment, instead of the compensation provided in paragraph (a), wage-loss benefits pursuant to subsection (3)(b) 60 percent of the difference between his average weekly wages at the time the total disability was incurred and his wage-earning capacity as determined by his actual earnings in such employment. The division shall adopt rules to enable a permanently and totally disabled employee, who may have reestablished an earning capacity, to undertake a trial period of reemployment without prejudicing his return to permanent total status in the case that such employee is unable to sustain an earning capacity

(e)1. In case of permanent total disability resulting from injuries which occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under the provisions of s. 440.20(12) subsection 440.20(10), the injured employee shall receive from the division additional weekly compensation benefits equal to 5 percent of the injured employee's weekly compensation rate as established pursuant to the law in effect on the date of his injury, multiplied by the number of calendar years since the date of injury, and subject to the maximum weekly compensation rate set forth in s. subsection 440.12(2). Such additional benefits shall be paid out of the Workers' Workmen's Compensation Trust Fund. This applies to payments due after October 1, 1974.

2. The division shall provide by rule for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the division nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the division in the manner prescribed by said rules.

The division shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier shall not be required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by said rules.

(2) TEMPORARY TOTAL DISABILITY.—

(a) In case of disability total in character but temporary in quality, 66 2/3 percent of the average weekly wages shall be paid to the employee during the continuance thereof, not to exceed 350 weeks except as provided in s. 440.12(1).

(b) Temporary total disability, for which compensation shall be paid pursuant to paragraph (a), shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training or education under a rehabilitation program pursuant to subsections 440.40(1), (2) or (3), not to exceed 40 weeks.

(b)(e) Notwithstanding the provisions of paragraph (a) an employee who has sustained the loss of an arm, leg, hand, or foot, or total loss of use of such arm, leg, hand, or foot, or total loss of use of such member, because of organic damage to the nervous system, or has lost the sight of both eyes, as provided in paragraph (3)(p), shall be paid temporary total disability of 80 percent of his average weekly wage until such employee has completed his training in the use of artificial members or appliances as necessary and completed training or education under a rehabilitative program pursuant to s. subsections 440.49 (1), (2), or (3), if provided. In no event should the increased temporary total disability compensation provided for in this paragraph extend beyond 6 months from the date of injury. The compensation provided by this paragraph is not subject to the limits provided in subsection 440.12 (2), but instead is subject to a maximum weekly compensation rate of \$400. If, at the conclusion of this period of increased temporary total

disability compensation, the employee is still temporarily totally disabled, the employee shall continue to receive temporary total disability compensation as set forth in ~~paragraph paragraphs~~ (a) and s. 440.49(5) ~~(b)~~. The period of time the employee has received this increased compensation will be counted as part of, and not in addition to, the maximum periods of time for which the employee is entitled to compensation under paragraph (a) but not s. 440.49(5) ~~paragraph (b)~~.

(Substantial rewording of subsection. See s. 440.15(3), F.S., 1978 Supp., for present text.)

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. In case of permanent impairment due to amputation, loss of 80 percent or more of vision, after correction, or serious facial or head disfigurement resulting from an injury other than an injury entitling the injured worker to permanent total disability benefits pursuant to subsection (1), there shall be paid to the injured worker the following:

a. Fifty dollars for each percent of permanent impairment of the body as a whole from 1 percent through 50 percent; and

b. One hundred dollars for each percent of permanent impairment of the body as a whole for that portion in excess of 50 percent.

2. Once the employee has reached the date of maximum medical improvement impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

3. In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the division shall establish and use a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule shall be based on generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for such purpose, such as the American Medical Association's Guides to the Evaluation of Permanent Impairment. On the effective date of this act and pending the adoption of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971 by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof.

(b) Wage-loss benefits.—

1. Each injured worker who suffers any permanent impairment, which permanent impairment is determined pursuant to the schedule adopted in accordance with subparagraph 3. of paragraph (a), may be entitled to wage-loss benefits under this subsection. Such benefits shall be based on actual wage-loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2). Such wage-loss benefits shall be, subject to the maximum compensation rate as set forth in s. 440.12(2), equal to 95 percent of the difference between 85 percent of the employee's average monthly wage, and the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, as compared on a monthly basis; provided that the monthly wage-loss benefits shall not exceed an amount equal to 66 2/3 percent of the employee's average monthly wage at the time of injury. In order to simplify the comparison of the preinjury average monthly wage with the salary, wages, and other remuneration the employee is able to earn after reaching maximum medical improvement, the division may by rule provide for the modification of the monthly comparison so as to coincide as closely as possible with the injured worker's pay periods.

2. The amount determined to be the salary, wages, and other remunerations the employee is able to earn after reaching the date of maximum medical improvement shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. In the event the employee voluntarily limits his or her income, or fails to accept employment commensurate with his or her abilities, the salary, wages, and other remuneration the employee is able to earn after the date of maximum medical improvement shall be deemed to be the amount which would have been earned if the employee did not limit his or her income or accepted appro-

priate employment. Whenever a wage-loss benefit as set forth in subparagraph 1. may be payable, the burden shall be on the employee to establish that any wage-loss claimed is the result of the compensable injury.

3. The right to wage-loss benefits shall terminate:

a. As of the end of any 2-year period commencing at any time subsequent to the month when the injured employee reaches the date of maximum medical improvement, unless during such 2-year period wage-loss benefits shall have been payable during at least 3 consecutive months; or

b. For injuries occurring on or before July 1, 1980, 350 weeks after the injured employee reaches the date of maximum medical improvement; or

c. For injuries occurring after July 1, 1980, 525 weeks after the injured employee reaches maximum medical improvement; or

d. When the injured employee reaches age 65, whichever comes first.

4. When the injured employee reaches age 62, wage-loss benefits shall be reduced by the total amount of social security retirement benefits which the employee is receiving, not to exceed 50 percent of the employee's wage-loss benefits.

5. Beginning with the 25th month after maximum medical improvement and for the purpose of determining wage-loss benefits, the total wages, salary, and other remuneration for the month in consideration shall be discounted as follows:

a. For those injuries occurring on or after July 1, 1979, and on/or before July 1, 1980, by a factor of 3 percent;

b. For those injuries occurring after July 1, 1980, by a factor of 5 percent; or

c. By the most current annual rate of inflation as determined by the Consumer Price Index, published by the United States Department of Labor, whichever is less. The period of discount shall be 1 year less than the number of complete years from maximum medical improvement.

6. The division shall keep such records and conduct such investigations as are necessary to determine the feasibility of providing additional protection from inflation for workers entitled to wage-loss benefits and shall report its findings to the Legislature not later than March 1, 1981.

(4) TEMPORARY PARTIAL DISABILITY.—In case of temporary partial disability, *benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in s. 440.12(2), resulting in decrease of earning capacity.* The compensation shall be 66 2/3 ~~60~~ percent of the difference between the injured employee's average weekly wages before the injury and the salary and wages and other remuneration the employee is able to earn after the injury and before reaching the date of maximum medical improvement, as determined pursuant to subsection (3)(b)2. ~~his wage earning capacity after the injury in the same or other employment, to be paid during the continuance of such disability, but shall not to exceed be paid for a period of exceeding 5 years.~~

(Substantial rewording of subsection. See s. 440.15(5), F.S., 1978 Supp., for present text.)

(5) SUBSEQUENT INJURY.—

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefor, shall not preclude him from benefits for a subsequent injury nor preclude benefits for death resulting therefrom. Compensation for temporary disability, medical benefits, and wage-loss benefits shall not be subject to apportionment.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible to receive impairment benefits under subsection (3)(a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject accident or injury or which would have existed by the time of the impairment rating without the intervention of the com-

pensable accident or injury. The degree of permanent impairment attributable to the accident or injury shall be compensated in accordance with subsection (3)(a). As used in this paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairments ratings when each impairment is considered individually.

(c) If an employee receiving wage-loss benefits suffers a subsequent injury causing temporary disability, both wage-loss benefits and temporary disability benefits shall be payable during the duration of temporary disability, provided that the total benefits payable shall not exceed the maximum compensation rate in effect for temporary disability at the time of the subsequent injury. Any reduction in benefits due to such limit shall be applied first to the wage-loss benefits payable as a result of the prior injury.

(d) If an employee receiving wage-loss benefits suffers a subsequent injury causing an additional compensable wage loss, benefits for each wage loss shall be payable, provided that the total wage-loss benefits payable shall not exceed the maximum compensation in effect for permanent disability at the time of the subsequent injury. Any reduction in wage-loss benefits due to such limitation shall be applied first to the benefits payable as a result of the prior injury.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and his dependents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. s. 423 and s. 402, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than they would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits shall not be applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(Substantial rewording of subsection. See s. 440.15(11), F.S., 1978 Supp., for present text.)

(11) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION.—

(a) No compensation benefits shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, unemployment compensation benefits.

(b) If an employee is entitled to both wage-loss benefits pursuant to s. 440.15(3) and unemployment compensation benefits, such unemployment compensation benefits shall be primary and wage-loss benefits shall be supplemental only, the sum of the two benefits not to exceed the amount of wage-loss benefits which would otherwise be payable. For purposes of termination of wage-loss benefits pursuant to s. 440.15(3)(b) 3.a., the term "payable" shall be construed to include payment of unemployment compensation benefits in lieu of income supplement benefits as provided in this subsection.

Section 11. Paragraphs (a), (d), and (e) of subsection (1) and subsection (6) of section 440.151, Florida Statutes, are amended to read:

440.151 Occupational diseases.—

(1)(a) Where the employer and employee are subject to the provisions of the *Workers' Workmen's* Compensation Law, the disablement or death of an employee resulting from an occupational disease as hereinafter defined shall be treated as the happening of an injury by accident, notwithstanding any other provisions of this chapter, and the employee or, in case of death, his dependents shall be entitled to compensation as provided by this chapter, except as hereinafter otherwise provided; and the practice and procedure prescribed by this chap-

ter shall apply to all proceedings under this section, except as hereinafter otherwise provided. Provided, however, that in no case shall an employer be liable for compensation under the provisions of this section unless such disease has resulted from the nature of the employment in which the employee was engaged under such employer and was actually contracted while so engaged, meaning by "nature of the employment" that to the occupation in which the employee was so engaged there is attached a particular hazard of such disease that distinguishes it from the usual run of occupations, or the incidence of such disease is substantially higher in the occupation in which the employee was so engaged than in the usual run of occupations, or, in case of death, unless death follows continuous disability from such disease, commencing within the period above limited, for which compensation has been paid or awarded or timely claim made as provided in this section, and results within 350 weeks after such last exposure.

(d) No compensation for death from an occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this *Workers' Workmen's* Compensation Law would give right to compensation, arose subsequent to the beginning of the first compensable disability save only to afterborn children of a marriage existing at the beginning of such disability.

(e) The presumptions in favor of claimants established by s. 440.26 of this *Workers' Workmen's* Compensation Law shall not apply to a claim for compensation for an occupational disease under this section.

(6) The time for notice of injury or death provided in s. 440.185 440.18(1) shall be extended in case of occupational diseases to a period of 90 days.

Section 12. Paragraph (b) of subsection (2), paragraph (b) of subsection (4), and subsections (5) and (8) of section 440.16, Florida Statutes, are amended to read:

440.16 Compensation for death.—If death results from the accident within 1 year thereafter or follows continuous disability and results from the accident within 5 years thereafter, the employer shall pay:

(2) Compensation, in addition to the above, in the following percentages of the average weekly wages to the following persons entitled thereto on account of dependency upon the deceased and in the following order of preference, [subject to the limitation provided in paragraph (b)], but such compensation shall be subject to the limits provided in s. 440.12(2) and shall not exceed \$50,000; and may be less than, but shall not exceed, for all dependents or persons entitled to compensation, 66 2/3 60 percent of the average wage:

(b) To the spouse if there is a child or children, the compensation payable under paragraph (a) and, in addition, 15 percent on account of the child or children. However, when the deceased is survived by a spouse and also a child or children, whether such child or children be the product of the union existing at the time of death or of a former marriage or marriages, the *deputy commissioner judge of industrial claims* may provide for the payment of compensation in such manner as to the *deputy commissioner judge* may appear just and proper and for the best interests of the respective parties and in so doing may provide for the entire compensation to be paid exclusively to the child or children; and, in the case of death or remarriage of such spouse, 30 percent for each child.

(4) Where, because of the limitation in subsection (2), a person or class of persons cannot receive the percentage of compensation specified as payable to or on account of such person or class, there shall be available to such person or class that proportion of such percentage as, when added to the total percentage payable to all persons having priority of preference, will not exceed a total of said 60 percent, which proportion shall be paid:

(b) To such class share and share alike unless the *deputy commissioner judge of industrial claims* determines otherwise in accordance with the provisions of subsection (5).

(5) If the *deputy commissioner judge of industrial claims* determines that payments in accordance with paragraph (4)(b) would provide no substantial benefit to any person of such class, the *deputy commissioner judge* may provide for the payment of such compensation to the person or persons within such class whom the *deputy commissioner judge* considers will be most benefited by such payment.

(8) Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving spouse and child or children, or if there be no surviving spouse or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of the injury, and except that the *deputy commissioner judge of industrial claims* may, at the *deputy commissioner's judge's* option, or upon the application of the insurance carrier, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the *deputy commissioner judge of industrial claims*, and provided further that compensation to dependents referred to in this subsection shall in no case exceed \$1,000.

Section 13. Section 440.17, Florida Statutes, is amended to read:

440.17 Guardian for minor or incompetent.—Prior to the filing of a claim, the division, and after the filing of a claim, a *deputy commissioner judge of industrial claims* may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter; however, the *deputy commissioner judge of industrial claims* in the *deputy commissioner's judge's* discretion may designate in the compensation award a person to whom payment of compensation may be paid for a minor or incompetent, in which event payment to such designated person shall discharge all liability for such compensation.

Section 14. Subsections (1), (2), (4), (6), and (7) of section 440.185, Florida Statutes, 1978 Supplement, are amended, and subsection (10) is added to said section to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(1) Within 30 days after the date of injury, the employee shall give notice of such injury to the employer and to the division. However, failure to give such notice shall not be a bar to any claim under this chapter unless objection to such failure is raised before the *deputy commissioner judge of industrial claims* at the first hearing of a claim for compensation in respect to ~~of~~ such injury or death, and if:

(a) The employer or the agent thereof in charge of the business in the place where the injury occurred or the carrier had knowledge of the injury and the *deputy commissioner judge of industrial claims* determines that the employer or carrier has not been prejudiced by the employee's failure to give such notice; or

(b) The *deputy commissioner judge of industrial claims* excuses such failure on the ground that for some satisfactory reason such notice could not be given. However, when the delay in giving notice is so excused, no compensation shall be payable for aggravation of the injury caused by want of "first aid" or proper medical treatment during such delay, and every presumption shall be against the validity of the claim.

(2) Within 7 days of actual knowledge of injury or death, the employer shall report same to the carrier and the division and the employee, by letter or on a form prescribed by the division, providing the following information:

- (a) The name, address, and business of the employer;
- (b) The name, social security number, street, mailing address, telephone number, and occupation of the employee;
- (c) The cause and nature of the injury or death;
- (d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred; and
- (e) Such other information as the division may require, including a clear and understandable summary statement of the rights, benefits and obligations of injured workers under the Florida Workers' Compensation Law.

(4) Upon receipt of notice of injury from the employer, or any other indication of a compensable injury, the division shall immediately mail to the injured worker an informational

brochure as prescribed by the division which sets forth in clear and understandable language a summary statement of the rights, benefits and obligations of injured workers under the Florida Workers' Compensation Law, together with an explanation of its operation. The division shall review any such notice or indication of injury received and, if it appears to the division that the injury will result in permanent impairment, the division shall, within 3 days of receipt of such notice, or indication of injury, contact the injured worker or a family member serving as personal representative thereof, by telephone if possible, otherwise by mail, in order to discuss the rights and benefits of the injured employee under the Florida Workers' Compensation Law and to assist the injured worker in securing any benefits provided for under this chapter to which such injured worker is entitled. The carrier or a self-insured employer shall, within 10 days of receipt of the form reporting the injury, or of knowledge of the injury if the employer is self-insured, mail the form or a letter containing the information required by subsection (2) to the division at its address in Tallahassee. However, the division may by rule provide for a different reporting system for those types of injuries it determines should be reported in a different manner.

(6) In the absence of a stipulation by the parties, reports provided for in subsection (2), subsection (4), or subsection (5) shall not be evidence of any fact stated in such report in any proceeding relating thereto, except for medical reports, which, if otherwise qualified, may be admitted at the discretion of the *deputy commissioner judge of industrial claims*.

(7) Every insurance carrier writing workers' compensation insurance for employment covered under this chapter shall file written notice with the division within 21 10 days after the issuance of a policy or contract of insurance. Notice of cancellation or expiration of policy as set out in ~~subsection~~ 440.42(2) shall be mailed to the division in accordance with rules promulgated by the division under chapter 120.

(10) Any compensable wage loss shall be reported by the employee to the carrier or employer, if self-insured, within 30 days after the termination of the period for which such loss is claimed. The division shall provide by rule for the reporting of wage loss by the injured worker and for the reporting of wage loss and payment of wage-loss benefits by the employer to the division, and may prescribe forms for such reporting. The division, upon request by the employer or carrier, shall provide verification through unemployment compensation records of any claimed wage loss and shall obtain such verification from other states, if applicable. The division shall require by rule that the employer inform a worker who suffers a permanent impairment of his possible entitlement to wage-loss and other benefits and of the worker's obligation to report a claimed wage loss.

Section 15. Section 440.19, Florida Statutes, is amended to read:

440.19 Time and procedure for filing claims.—

(1) Upon receipt by the division, every claim for benefits filed under this chapter shall be evaluated by the division to ascertain whether the claim can be resolved without a hearing, and within 10 days of such receipt the division shall make a decision as to the entitlement to benefits and shall notify the parties with respect thereto. Any such decision by the division shall be advisory. At any hearing before the *deputy commissioner*, the decision of the division shall not be res judicata, but shall be included in the case file in the division and shall be deemed a part of the proceeding. No request for hearing shall be filed until the division issues its decision, or until 10 days after the filing of the claim, whichever is earlier.

(2)(1)(a) The right to compensation for disability, impairment, or wage loss under this chapter shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed within 2 years after the time of injury, except that, if payment of compensation has been made or remedial treatment has been furnished by the employer without an award on account of such injury, a claim may be filed within 2 years after the date of the last payment of compensation or after the date of the last remedial treatment furnished by the employer.

(b) All rights for remedial attention under this section shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed with the division within two years after the time of injury, except that if payment of compensation has been made or remedial attention has been furnished by the employer without an award on account of

such injury a claim may be filed within two years after the date of the last payment of compensation or within two years after the date of the last remedial attention furnished by the employer; and all rights for remedial attention under this section pursuant to the terms of an award shall be barred unless a further claim therefor is filed with the division within two years after the entry of such award, except that if payment of compensation has been made or remedial attention has been furnished by the employer under the terms of the award a further claim may be filed within two years after the date of the last payment of compensation or within two years after the date of the last remedial attention furnished by the employer. However, no statute of limitations shall apply to the right for remedial attention relating to the insertion or attachment of a prosthetic device to any part of the body.

(c)(b) The right to compensation for death under this chapter shall be barred unless a claim therefor which meets the requirements of paragraph (d) is filed within 2 years after the death, except that, if payment of compensation has been made without an award on account of such death, a claim may be filed within 2 years after the date of the last payment.

(d)(e) Such claim shall be filed with the division at its office in Tallahassee and shall contain the name and address of the employee, the name and address of the employer, and a statement of the time, place, nature, and cause of the injury, or such fairly equivalent information as will put the division and the employer on notice with respect to the identity of the parties and the specific compensation benefit which is due but has not been paid or is not being provided nature of the claim. Any claim, or portion thereof, not in compliance with this subsection shall be subject to dismissal upon motion of any interested party, the division, or the deputy commissioners.

(e)(d) Any deputy commissioner judge of industrial claims receiving a claim for compensation in any form shall, immediately upon receipt of such claim, mail said claim to the division at its office in Tallahassee.

(f)(e) In no event and under no circumstances shall any of the rights of employees under the Workers' Workmen's Compensation Law be prejudiced or lost by failure or delay of deputy commissioners judges of industrial claims in mailing claims in any form to the division in Tallahassee.

(3)(2) Notwithstanding the provisions of subsection (2)(1) failure to file claim within the period prescribed in such subsection shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(4)(3) If a person who is entitled to compensation under this chapter is mentally incompetent or a minor, the provisions of subsection (2)(1) shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(5)(4) Where recovery is denied to any person, in a suit brought at law or in admiralty to recover damages in respect of injury or death, on the ground that such person was an employee and that the defendant was an employer within the meaning of this chapter and that such employer had secured compensation to such employee under this chapter, the limitation of time prescribed in subsection (2)(1) shall begin to run only from the date of termination of such suit, but in such an event the employer shall be allowed a credit of his actual cost of defending said suit in a sum not exceeding \$250, which shall be deducted from any compensation allowed or awarded to said employee under this chapter.

(6) An employer or carrier shall, at the request of an employee or the attorney thereof, furnish to such person any medical information and earnings information relating to such employee, whether or not a claim therefor has been filed.

Section 16. Subsections (3) through (13) of section 440.20, Florida Statutes, 1978 Supplement, are renumbered as subsections (5) through (15), respectively, present subsections (2), (4), (5), (7), (9), (10), (11) and (13) are amended, and new subsections (3) and (4) and subsections (16) and (17) are added to said section to read:

440.20 Payment of compensation.—

(2) The first installment of compensation for temporary disability or death shall become due on the 14th day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Thereafter, compensation shall be paid in installments weekly or biweekly except when the deputy commissioner judge of industrial claims determines that payments in installments should be made monthly or at some other period.

(3) Impairment benefits shall be payable in accordance with s. 440.15(3)(a)2.

(4) Wage-loss benefits payable pursuant to s. 440.15(3)(b) shall be paid monthly, subsequent to the termination of the period for which such payments are due, within 14 days of the date upon which the carrier or employer has knowledge of the compensable wage loss.

(6)(4) If the employer carrier controverts the right to compensation he it shall file with the division on or before the 21st day after he has knowledge of the alleged injury or death, a notice in accordance with a form prescribed by the division, stating that the right to compensation is controverted, the name of the claimant, the name of the employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted, together with a written explanation setting forth in detail the reason or reasons why the claim has been controverted, and a copy of such notice shall be furnished by the carrier to the employee and employer.

(7)(5) If any installment of compensation for death or dependency benefits, disability, permanent impairment, or wage loss payable without an award is not paid within 14 days after it becomes due, as provided in subsections subsection (2), (3), or (4), there shall be added to such unpaid installment a punitive penalty of an amount equal to 10 20 percent thereof, which shall be paid at the same time as, but in addition to, such installment of compensation, unless notice is filed under subsection (6) (4), or unless such nonpayment results from conditions over which the employer or carrier had no control. When any installment of compensation payable without an award has not been paid within 14 days after it became due and the claimant concludes the prosecution of the claim before a deputy commissioner judge without having specifically claimed additional compensation in the nature of a penalty under this section, he will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived his right to claim such penalty. However, during the course of a hearing, the deputy commissioner shall judge on his own motion may raise the question of whether such penalty should be awarded or excused. If no claim for such penalty is presented and the judge does not raise the question on his own motion during the hearing, no penalty will be awarded, and it will be deemed that the judge has excused such delay in payment of compensation pursuant to this section. The division may assess without a hearing the above mentioned 10 20 percent additional payment against either the employer or the insurance carrier, depending upon who was at fault in causing the delay. However, if any party requests a hearing within 20 days of the assessment, such hearing shall be conducted before a judge of industrial claims in accordance with s. 440.26. The insurance policy cannot provide that this sum will be paid by the carrier if the division or the deputy commissioner judge of industrial claims determines that the 20 10 percent additional payment should be made by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee.

(9)(7) In addition to any other penalties provided by this chapter for late payment, if any installment of compensation is not paid when it becomes due, the employer or carrier shall pay interest thereon at the rate of 12 percent per annum from the date the installment becomes due until it is paid, whether such installment is payable without an order or under the terms of an order.

(a) Within 30 days after final payment of compensation has been made, the employer shall send to the division a notice, in accordance with a form prescribed by the division, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other

person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid.

(b) If the employer fails to so notify the division within such time, the division shall ~~may~~ assess against such employer a civil penalty in an amount not over \$100.

(11)(10) Whenever the division deems it advisable it may require any employer to make a deposit with the State Treasurer to secure the prompt and convenient payments of such compensation, and payments therefrom upon any awards shall be made upon order of the division or ~~deputy commissioner judge of industrial claims.~~

(12)(10)(a) *It is the stated policy for the administration of the workers' compensation system that it is in the best interests of the injured worker that he or she receive disability or wage-loss payments on a periodic basis. Lump sum payments in exchange for the employer's or carrier's release from liability for future payments of compensation, other than for medical expenses, shall be allowed only under special circumstances, as when the claimant can demonstrate that lump payments will definitely aid in his or her rehabilitation or are otherwise clearly in his or her best interests and that lump sum payments will avoid undue expense or undue hardship to any party, or that such claimant has removed himself or herself or is about to remove himself or herself from the state. In no case shall a lump sum payment be allowed in exchange for the release of an employer's or carrier's liability for future medical expenses. In no case shall a lump sum settlement be allowed until 6 months after the date of maximum medical improvement has been reached.*

(b) Upon the application of any party in interest or upon joint petition of all interested parties, and after giving due consideration to the interests of all interested parties, if a ~~deputy commissioner judge of industrial claims~~ finds that a lump sum payment in exchange for release from liability is proper under paragraph (a) it is ~~for the best interests of the person entitled to compensation,~~ said ~~deputy commissioner judge of industrial claims~~ may enter a compensation order requiring that the liability of the employer for compensation shall be discharged by the payment of a lump sum equal to the present value of all future payments of compensation, computed at 4 percent true discount compounded annually, or requiring that the employer make advance payment of a part of the compensation for which said employer is liable by the payment of a lump sum equal to the present value of such part of the compensation, computed at 4 percent true discount compounded annually. ~~Upon joint petition of all interested parties and after giving due consideration to the interests of all interested parties, if a judge of industrial claims finds that it is for the best interests of the person entitled to compensation, such judge of industrial claims may enter a compensation order approving and authorizing the discharge of the liability of the employer for both compensation and remedial treatment, care, and attendance by the payment of a lump sum equal to the present value of all future payments for both compensation and remedial treatment, care, and attendance; and A compensation order so entered upon joint petition of all interested parties shall not be subject to modification or review under s. 440.28. However, nothing in this subsection shall be construed to mean that a deputy commissioner judge of industrial claims is required to approve any award for lump sum payment when it is determined by the deputy commissioner judge of industrial claims that the payment being made is in excess of the value of benefits the claimant would be entitled to under this chapter. The deputy commissioner judge shall make or cause to be made such investigations as he considers necessary, in each case in which the parties have stipulated that a proposed final settlement of all liability of the employer for compensation shall not be subject to modification or review under s. 440.28, to determine whether such final disposition will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the person entitled to compensation and in his discretion may have an investigation made by the Rehabilitation Section of the Division Bureau of Workers' Workmen's Compensation. The joint petition and the report of any investigation so made will be deemed a part of the proceeding. A deputy commissioner judge, in his discretion, may hear testimony relating to a proposed stipulation for settlement under this subsection without having in hand the division bureau file; however, he shall in no event enter an order thereon without first having reviewed the division bureau~~

file. *An employer shall have the right to appear at any hearing pursuant to this subsection which relates to the discharge of such employer's liability, and to present testimony at such hearing. The carrier shall provide reasonable notice to the employer of the time and date of any said hearing and inform him of his rights to appear and testify.* When the claimant is represented by counsel or when the claimant and carrier or employer are represented by counsel, final approval of the lump sum settlement agreement, as provided for in a joint petition and stipulation, shall be approved by entry of an order within 7 days of the filing of such joint petition and stipulation without a hearing, unless the ~~deputy commissioner judge~~ determines, at his discretion, that additional testimony is needed before such settlement can be approved or disapproved and so notifies the parties. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which such person is entitled to compensation shall, in the absence of special circumstances making such course improper, be determined in accordance with the most recent United States Life Tables published by the National Office of Vital Statistics of the United States Department of Health, Education, and Welfare. The probability of the happening of any other contingency affecting the amount or duration of the compensation, except the possibility of the remarriage of a surviving spouse, shall be disregarded. As a condition of approving a lump sum payment to a surviving spouse, the ~~deputy commissioner judge of industrial claims~~ in the ~~deputy commissioner's judge's~~ discretion may require security which will insure that, in the event of the remarriage of such surviving spouse, any unaccrued future payments so paid may be recovered or recouped by the employer or carrier. Such applications shall be considered and determined in accordance with ss. 440.25 and 440.27 and the ~~workers' workmen's~~ compensation rules of procedure prescribed by the commission and adopted by the Supreme Court.

(13)(11)(a) Liability of an employer for future payments of compensation shall not be discharged by advance payment unless prior approval of a ~~deputy commissioner judge of industrial claims~~ or the ~~division bureau~~ has been obtained as hereinafter provided. The approval shall not constitute an adjudication of the claimant's percentage of disability.

(b) When the claimant has reached maximum recovery and returned to his former or equivalent employment with no substantial reduction in wages, such approval of a reasonable advance payment of a part of the compensation payable to the claimant may be given informally by letter by a ~~deputy commissioner judge of industrial claims~~, by the ~~division director bureau chief~~, or by the administrator of claims of the ~~division bureau~~.

(c) [In the event] the claimant has not returned to the same or equivalent employment with no substantial reduction in wages or has suffered a substantial loss of earning capacity or a physical impairment, actual or apparent:

1. An advance payment of compensation not in excess of \$2,000 may be approved informally by letter, without hearing, by any ~~deputy commissioner judge of industrial claims~~, by the ~~division director bureau chief~~, or by the administrator of claims of the ~~division bureau~~.

2. An advance payment of compensation not in excess of \$2,000 may be ordered by any ~~deputy commissioner judge of industrial claims~~ after giving the interested parties opportunity for a hearing thereon pursuant to not less than 10 days' notice by mail, unless such notice is waived, and after giving due consideration to the interests of the person entitled thereto. When the parties have stipulated to an advance payment of compensation not in excess of \$2,000, such advance may be approved by an order of a ~~deputy commissioner judge of industrial claims~~, with or without hearing, or informally by letter by any such ~~deputy commissioner judge~~, or by the ~~division director bureau chief~~, if such advance is found to be for the best interests of the person entitled thereto.

3. When the parties have stipulated to an advance payment in excess of \$2,000, subject to the approval of the ~~division bureau~~, said payment may be approved by a ~~deputy commissioner judge of industrial claims~~ by order if he finds that same is for the best interests of the person entitled thereto and is reasonable under the circumstances of the particular case. The ~~deputy commissioner judge~~ shall make or cause to be made such investigations as he considers necessary concerning the stipula-

tion, and in his discretion may have an investigation of the matter made by the Rehabilitation Section of the ~~division bureau~~. The stipulation and the report of any investigation shall be deemed a part of the record of the proceedings.

(d) When an application for an advance payment in excess of \$2,000 is opposed by the employer or carrier, it shall be heard by a ~~deputy commissioner judge of industrial claims~~ after giving the interested parties not less than 10 days' notice of such hearing by mail, unless such notice is waived. In his discretion, the ~~deputy commissioner judge~~ may have an investigation of the matter made by the Rehabilitation Section of the ~~division bureau~~, in which event the report and recommendation of said section will be deemed a part of the record of the proceedings. If the ~~deputy commissioner judge~~ finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, he may order the same paid.

(15)(13) When an employee is injured and the employer pays his full wages or any part thereof during the period of disability, or pays medical expenses for such employee, and the case is contested by the carrier or the carrier and employer, and thereafter the carrier, either voluntarily or pursuant to an award, makes a payment of compensation or medical benefits, the employer shall be entitled to reimbursement to the extent of the compensation paid or awarded, plus medical benefits, if any, out of the first proceeds paid by the carrier in compliance with said voluntary payment or award, provided the employer furnishes satisfactory proof to the judge of such payment of compensation and medical benefits. Any payment by the employer over and above compensation paid or awarded and medical benefits, pursuant to subsection (14)(12), shall be considered a gratuity.

(16)(a) *The division shall examine on an ongoing basis claims files in its possession in order to identify questionable claims handling techniques, questionable patterns of claims, or a pattern of repeated unreasonably controverted claims by employers, carriers, or self-insurers and shall certify its findings to the Department of Insurance. Only such questionable techniques, patterns, or repeated unreasonably controverted claims as constitute a general business practice of a carrier in the judgment of the division shall be certified in its findings by the division to the Department of Insurance. Upon receipt of any such certification, the Department of Insurance shall take appropriate action so as to bring such general business practices to a halt pursuant to s. 440.38(2). Upon receipt by the division of a written request for an investigation raising such questionable techniques, patterns, or repeated unreasonably controverted claims, the division shall investigate the particular carrier in question and shall certify its findings to the Department of Insurance with a copy of the requesting party.*

(b) *The division shall publish annually a report which indicates the promptness of first payment of compensation records of each carrier or self-insurer so as to focus attention on those carriers or self-insurers with poor payment records for the preceding year. A copy of such report shall be certified to the Department of Insurance which shall take appropriate steps so as to cause such poor carrier payment practices to halt pursuant to s. 440.38(2). In addition, the division shall take appropriate action so as to halt such poor payment practices of self-insurers. "Poor payment practice" means a practice of late payment sufficient to constitute a general business practice.*

(c) *The division shall promulgate rules providing guidelines to carriers, self-insurers, and employers to indicate behavior that may be construed as questionable claims handling techniques, questionable patterns of claims, repeated unreasonably controverted claims, or poor payment practices.*

(17) *No penalty assessed under this section shall be recouped by any carrier or self-insurer in the rate base, premium, or in any rate filing. In the case of carriers the Department of Insurance shall enforce this subsection, and in the case of self-insurers the division shall enforce this subsection.*

Section 17. Section 440.205, Florida Statutes, is created to read:

440.205 Coercion of employees.—

No employer shall discharge, threaten to discharge, intimidate or coerce any employee by reason of such employee's valid claim for compensation or attempt to claim compensation under the Workers' Compensation Act of Florida.

Section 18. Section 440.24, Florida Statutes, is amended to read:

440.24 Enforcement of compensation orders; penalties.—

(1) In case of default by the employer or carrier in the payment of compensation due under any compensation order of a ~~deputy commissioner judge of industrial claims~~ or order of the commission or other failure by the employer or carrier to comply with such order for a period of 10 days after the order has become final, any circuit court of this state within the jurisdiction of which the employer or carrier resides or transacts business shall, upon application by the division or any beneficiary under such order, have jurisdiction to issue a rule nisi directing such employer or carrier to show cause why a writ of execution, or such other process as may be necessary to enforce the terms of such order, shall not be issued, and unless such cause is shown, the said court shall have jurisdiction to issue a writ of execution or such other process or final order as may be necessary to enforce the terms of such order of the ~~deputy commissioner judge of industrial claims~~ or commission.

(2) In any case where the employer is insured and the carrier fails to comply with any compensation order of a ~~deputy commissioner judge of industrial claims~~ or order of the commission for a period of 10 days after such order has become final, the division shall notify the Department of Insurance of such failure, and the Department of Insurance shall thereupon suspend the license of such carrier to do an insurance business in this state, until such carrier has complied with such order.

(3) In any case where the employer is a self-insurer and fails to comply with any compensation order of a ~~deputy commissioner judge of industrial claims~~ or order of the commission for a period of 10 days after such order has become final, the division may suspend or revoke any authorization previously given to the employer to become a self-insurer, and the division will be authorized to sell such of the securities deposited by such self-insurer with the division as may be necessary to satisfy such order.

(4) In any case wherein the employee fails to comply with any order of a ~~deputy commissioner judge of industrial claims~~ within 10 days after such order becomes final, the ~~deputy commissioner judge~~ may dismiss the claim or suspend payments due under said claim until the employee complies with such order. The ~~deputy commissioner judge~~ may strike the defenses of the employer, if said employer is self-insured, or of the insurance carrier, if said employer is not self-insured, if said employer or carrier fails to comply with any order of a ~~deputy commissioner judge of industrial claims~~ within 10 days after such order becomes final.

Section 19. Subsections (1), (2), (3), (4), and (6) of section 440.25, Florida Statutes, 1978 Supplement, are amended to read:

440.25 Procedure in respect to claims and hearing requests.—

(1) Subject to the provisions of s. 440.19, claim for compensation may be filed with the division at its office in the City of Tallahassee in accordance with ~~rules regulations~~ prescribed by the division at any time after a ~~specific benefit becomes due and is not paid the first 7 days of disability following any injury or at any time after the death~~, and the ~~deputy commissioner judge of industrial claims~~ shall have full power and authority to hear and determine all questions in respect to such claims.

(2) Within 10 days after such claim is filed, the division, in accordance with ~~rules regulations~~ prescribed by it, shall notify the employer and any other person other than the claimant whom the division considers an interested party that a claim has been filed. Such notice may be served personally upon the employer or other person or sent to such employer or person by ~~certified regular~~ mail.

(3)(a) The division or deputy commissioner judge of industrial claims shall make or cause to be made such investigations as it considers necessary in respect to the claim, and upon request by application of any interested party the deputy commissioner judge of industrial claims shall order a hearing thereof. ~~† however, no claim for~~ An application for hearing concerning a claim shall state concisely in separate numbered paragraphs the reasons for requesting a hearing and the questions at issue or in dispute which the applicant expects the deputy commissioner to hear and determine, with sufficient particularity that the responding or opposing parties may be notified of the purpose of the hearing, including the issues to be heard and determined and the specific benefit which is due and not paid. No request for hearing filed on behalf of a party represented by an attorney shall be valid and of any force or effect unless there exists at the time of its filing a justifiable controversy determinable by the deputy commissioner. Any application for hearing not in compliance with this paragraph shall be subject to dismissal upon motion of the division, the deputy commissioner, or any interested party. ~~diminution of wage earning capacity shall mature until 90 days after the employee has reached maximum medical improvement. If a request for hearing on such claim is filed ordered, the deputy commissioner judge of industrial claims shall hold a hearing within 90 days after it is filed and shall give the claimant and other interested parties at least 15 days' notice of such hearing served upon the claimant and other interested parties by certified mail. All medical reports obtained by the carrier or employer under this section shall be furnished free of charge to the employee or the attorney thereof on demand.~~

(b) The hearing shall be held in the county where the injury occurred, if the same occurred in this state, unless otherwise agreed to between the parties and authorized by the deputy commissioner judge of industrial claims in the county where the injury occurred. If the injury occurred without the state, and is one for which compensation is payable under this chapter, then the hearing above referred to may be held in the county of the employer's residence or place of business, or in any other county of the state which will at the time of forwarding the file for hearing, in the discretion of the division, be the most convenient for a hearing. Subsequent to the forwarding of the file to such county, the parties and the deputy commissioner judge may agree to transfer such file to a county that is deemed most convenient for a hearing. The hearing shall be conducted by a deputy commissioner judge of industrial claims, who shall within 30 days, unless otherwise agreed to by the parties, after such hearing determine the dispute in a summary manner. At such hearing the claimant and employer may each present evidence in respect of such claim and may be represented by any attorney authorized in writing for such purpose. When there is a conflict in the medical evidence submitted at the hearing, the deputy commissioner judge of industrial claims may designate a disinterested doctor to submit a report or to testify in the proceeding, after such doctor has reviewed the medical reports and evidence, examined the claimant, or otherwise made such investigation as appropriate. The report or testimony of any doctor so designated by the deputy commissioner judge of industrial claims shall be made a part of the record of the proceeding and shall be given the same consideration by the deputy commissioner judge of industrial claims as is accorded other medical evidence submitted in the proceeding; and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13-

(3)(a). No deputy commissioner judge of industrial claims shall either make a finding of a degree of permanent, or award compensation for, a disability for physical impairment that is greater than the greatest permanent impairment rating disability given the claimant by any examining or treating physician, except upon stipulation of the parties.

(c) The order making an award or rejecting the claim, referred to in this chapter as a compensation order, shall set forth the findings of ultimate facts and the mandate, and the order need not include any other reason or justification for such mandate. However, in making an award for diminution of wage earning capacity, the judge of industrial claims shall consider and make written findings of fact in the order on each of the following factors which are applicable to the specific claim before him:

1. Extent of claimant's actual physical impairment.

2. Claimant's age.
3. Claimant's work history.
4. Education of claimant.
5. Inability to obtain work which claimant can perform in his after injury condition.
6. Wages actually being earned by claimant after the injury.
7. Claimant's ability to compete in the open labor market.
8. Claimant's continued employment in the same employment.
9. Evidence of good faith work search.

The compensation order shall be filed in the office of the division at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon.

(d) Each deputy commissioner judge of industrial claims or the Industrial Relations Commission is required to submit a special report to the Division Bureau of Workers' Workmen's Compensation in each contested workers' workmen's compensation case in which the case is not determined within 30 days of final hearing or within 180 days of filing an application for review. Said form shall be provided by the division bureau and shall contain the name of the deputy commissioner judge of industrial claims, if the case is before a deputy commissioner judge of industrial claims; the attorneys involved; and a brief explanation by the deputy commissioner judge of industrial claims or the Industrial Relations Commission industrial relations commissioner as to the reason for such a delay in issuing a final order. The Division Bureau of Workers' Workmen's Compensation shall compile these special reports into an annual public report to the Governor, the Secretary of Labor and Employment Security Commerce, the Legislature, The Florida Bar, and the appellate district judicial nominating commissions.

(4)(a) The compensation order rendered by the deputy commissioner judge of industrial claims shall become final 20 days after the date copies of same are mailed to the parties at the last known address of each, unless within said time any interested party shall make and file with the commission or a deputy commissioner judge of industrial claims an application for a review thereof by the commission in accordance with the provisions of this subsection. However, an employer who has not secured the payment of compensation under this chapter in compliance with s. 440.38 shall, as a condition of filing such application for a review by the commission, file with his application for review a good and sufficient bond, as provided in s. 59.13, conditioned to pay the amount of the award, interest and costs payable under the terms of the order of the commission, if the application shall be dismissed or the order thereon shall affirm or make an award of benefits in any amount, and upon failure of such employer to file such bond with his application for review the commission shall dismiss the application for review. The application must state concisely and particularly the grounds upon which the appellant relies, and the consideration of the commission thereof will be confined solely to the grounds so presented. A copy of all applications for review shall be served on all interested parties, and proof of service thereof shall accompany all applications when filed.

(b) The appellant shall have prepared, in accordance with the workers' workmen's compensation rules of procedure, a record [on] appeal, certified by the deputy commissioner judge of industrial claims, which record must be filed with the commission within 45 days from the date of the filing of the application for review, unless the commission for good cause shown by verified petition presented prior to the expiration of said period shall extend the time therefor. The appellant shall have a copy of the record served on the opposing party or parties or their counsel, and evidence of such service shall be filed with the record when filed with the commission. Upon failure of the appellant to file a record with the commission, together with evidence of service of a copy thereof on the opposing party or parties, within the time specified or within such time as allowed by the commission pursuant to petition for an extension of time as aforesaid, the commission shall dismiss the application for review.

(c)1. Within 15 days after the content of the record on appeal has been determined, the *deputy commissioner judge of industrial claims* shall serve notice upon the appellant or his attorney of the estimated cost of preparing the record on appeal and necessary copies thereof, and the appellant shall, within 15 days of the date of service, deposit the amount of the estimated cost of preparing the record at the office of the *deputy commissioner judge of industrial claims*. If the appellant fails to deposit the amount of costs within the time allotted, the *deputy commissioner judge of industrial claims* shall promptly notify the commission of such failure, and the commission shall dismiss the application for review. However, neither the division, nor the special disability trust fund, nor any self-insured state agency shall be required to make the deposit.

2. An appellant may be relieved in part or in whole from the costs for the preparation of the record on appeal if, within 15 days after the date notice of the estimated costs for the preparation is served, he files with the *deputy commissioner judge of industrial claims* a verified petition to be relieved of costs. The verified petition shall contain a detailed and sworn statement of all his assets, liabilities, and income. Appellant's attorney, or the appellant if not represented by an attorney, shall include as a part of the verified petition an affidavit or affirmation that in his opinion the application for review was filed in good faith and that the assignment of error contained therein constitutes a probable basis for the commission to find reversible error. A copy of the verified petition shall be served upon the division in Tallahassee and all other interested parties. The *deputy commissioner judge of industrial claims* shall promptly conduct a hearing on the verified petition, giving at least 15 days' notice to the appellant, the division, and all other interested parties, which shall all be parties to the proceeding. The *deputy commissioner judge* may enter an order without such hearing if no objection is filed by the division or an interested party within 12 days from the date the verified petition is filed. Said proceedings shall be conducted in accordance with this section and the *workers' workmen's compensation rules of procedure* to the extent applicable.

(d) Within 10 days after the appellant has filed his application for review, any other interested party who desires review of any adverse ruling by the *deputy commissioner judge of industrial claims* must file his cross-application for review with the commission or a *deputy commissioner judge of industrial claims*. The cross-application for review must state concisely and particularly the grounds upon which the cross-appellant relies, and the consideration of the commission thereof will be confined solely to the grounds so presented. A copy of all cross-applications for review shall be served on all interested parties, and proof of service thereof shall accompany all cross-applications when filed.

(e) Unless the application for review is withdrawn with its permission or is dismissed as aforesaid, the commission shall consider the matter upon the record as certified by the *deputy commissioner judge of industrial claims* and shall thereafter affirm, reverse or modify said compensation order, or remand the claim for further proceedings before a *deputy commissioner judge of industrial claims* who shall proceed as the commission may direct. The order of the commission shall be filed in the office of the commission at Tallahassee, and a copy of such order shall be sent by certified mail to each party at his last known address. The order of the commission shall become final upon expiration of the period within which any interested party may file a petition for writ of certiorari requesting review of such order by the Supreme Court, unless within said time any interested party shall file a petition for writ of certiorari in accordance with s. 440.27.

(6) An injured employee claiming or entitled to compensation shall submit to such physical examination by a duly qualified physician designated or approved by the *deputy commissioner judge of industrial claims* as the *deputy commissioner judge of industrial claims* may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer or carrier may select and pay for may participate in an examination if the employee, employer or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination. Any interested party shall have the right in any case of death to require an autopsy, the cost thereof to be borne by the party requesting it; and the *deputy commissioner judge of industrial claims* shall have authority to order and require an autopsy

and may in the *deputy commissioner's judge's* discretion withhold the *deputy commissioner's judge's* findings and award until an autopsy is held.

Section 20. Section 440.26, Florida Statutes, is amended to read:

440.26 Presumptions.—*Except as otherwise provided in this chapter*, in any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed, in the absence of substantial evidence to the contrary:

- (1) That the claim comes within the provisions of this chapter.
- (2) That sufficient notice of such claim has been given.
- (3) That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

Section 21. Section 440.28, Florida Statutes, is amended to read:

440.28 Modification of orders.—Upon a *deputy commissioner's judge's* own initiative or upon the application of any party in interest, on the ground of a change in condition or because of a mistake in a determination of fact the *deputy commissioner judge of industrial claims* may at any time prior to 2 years after the date of the last payment of compensation pursuant to any compensation order, or at any time prior to 2 years after the date copies of an order rejecting a claim are mailed to the parties at the last known address of each, review a compensation case in accordance with the procedure prescribed in respect of claims in s. 440.25 and in accordance with such section, issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation, or award compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined by the *deputy commissioner judge of industrial claims*.

Section 22. Section 440.29, Florida Statutes, 1978 Supplement, is amended to read:

440.29 Procedure before the commission or *deputy commissioners judges of industrial claims*.—

(1) In making an investigation or inquiry or conducting a hearing the *deputy commissioner judge of industrial claims* shall not be bound by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry, or conduct such hearing in such manner as to best ascertain the rights of the parties. Declaration of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

(2) Hearings before the *deputy commissioner judge of industrial claims* shall be open to the public and shall be reported, and the division is authorized to contract for the reporting of such hearings. The division shall by *rule regulation* provide for the preparation of a record of the hearings and other proceedings before *deputy commissioners judges of industrial claims* and shall be permitted to charge for transcripts of testimony and copies of any instrument the same fees as are allowed by law to reporters and clerks of courts of this state for like services.

(3) The practice and procedure before the commission and the *deputy commissioners judges of industrial claims* shall be governed by rules adopted by the Supreme Court, except to the extent that such rules conflict with the provisions of this chapter.

Section 23. Section 440.30, Florida Statutes, is amended to read:

440.30 Depositions.—Depositions of witnesses or parties, residing within or without the state, may be taken and may be used in connection with proceedings under the Florida *Workers' Workmen's Compensation Law*, either upon order of

the ~~deputy commissioner judge of industrial claims~~ or at the instance of any party or prospective party to such proceedings, and either prior to the institution of a claim, if the claimant is represented by an attorney, or after the filing of the claim in the same manner, for the same purposes, including the purposes of discovery, and subject to the same rules; all as now or hereafter prescribed by law or by rules of court governing the taking and use of such depositions in civil actions at law in the Circuit Courts of this State. Such depositions may be taken before any notary public, court reporter or deputy, and the fees of the officer taking the same and the fees of the witnesses attending the same, including expert witness fees as provided by law or court rule, shall be the same as in depositions taken for such Circuit Courts. Such fees may be taxed as costs and recovered by the claimant, if successful in such ~~workers' workmen's~~ compensation proceedings. If ~~no~~ the claim has ~~not been filed controverted or if 21 days have not passed without payment~~, then the carrier or employer taking the deposition shall pay the claimant's attorney a reasonable attorney's fee for attending said deposition.

Section 24. Section 440.31, Florida Statutes, is amended to read:

440.31 Witness fees.—Each witness who appears in obedience to a subpoena shall be entitled to the same fees as witnesses in a civil action in the circuit court; provided, however, that any expert witness, as defined in Rule 1.390(a) of the Rules of Civil Procedure, who shall have testified in any proceeding under this chapter shall be allowed a witness fee including the cost of any exhibits used by such witness in such reasonable amount as the ~~deputy commissioner judge of industrial claims~~ may determine, not in excess of the rate prevailing in the locality for witness fees for such expert witnesses in ~~workers' workmen's~~ compensation proceedings, notwithstanding the limitation provided in s. ~~92.231 90.231~~.

Section 25. Section 440.32, Florida Statutes, is amended to read:

440.32 Cost in proceedings brought without reasonable grounds.—If the ~~deputy commissioner judge of industrial claims~~, commission, or any court having jurisdiction of proceedings in respect of any claim or compensation order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the cost of such proceedings shall be assessed against the party who has so instituted or continued such proceedings.

Section 26. Section 440.33, Florida Statutes, is amended to read:

440.33 Powers of ~~deputy commissioners judges of industrial claims~~ and commission.—

(1) The ~~deputy commissioner judge of industrial claims~~ or commission may preserve and enforce order during any such proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the attendance and testimony of witnesses, or the production of books, papers, documents, and other evidence, or the taking of depositions before any designated individual competent to administer oaths; examine witnesses, and do all things conformable to law which may be necessary to enable it effectively to discharge the duties of its office.

(2) If any person in proceedings before the ~~deputy commissioner judge of industrial claims~~ or commission disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath or affirmation as a witness, or after having taken the oath refuses to be examined according to law, the ~~deputy commissioner judge of industrial claims~~ or commission, as the case may be, shall certify the facts to the court having jurisdiction in the place in which it is sitting which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court.

Section 27. Section 440.34, Florida Statutes, 1978 Supplement, is amended to read:

(*Substantial rewording of section. See s. 440.34, F.S., 1978 Supp., for present text.*)

440.34 Attorney's fees; costs; penalty for violations.—

(1) No fee, gratuity or other consideration shall be paid for services rendered for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable by the deputy commissioner, commission, or court having jurisdiction over such proceedings. Any attorney's fee approved by a deputy commissioner shall be equal to 25 percent of the first \$5,000 of the amount of the benefits secured, 20 percent of the next \$5,000 of the amount of the benefits secured, and 15 percent of the remaining amount of the benefits secured. However, the deputy commissioner shall consider the following factors in each case and may increase or decrease the attorney's fee if in his judgment the circumstances of the particular case warrant such action:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(b) The likelihood, if apparent to the claimant, that the acceptance of the particular employment will preclude employment of the lawyer by others or cause antagonisms with other clients.

(c) The fee customarily charged in the locality for similar legal services.

(d) The amount involved in the controversy and the benefits resulting to the claimant.

(e) The time limitation imposed by the claimant or the circumstances.

(f) The nature and length of the professional relationship with the claimant.

(g) The experience, reputation, and ability of the lawyer or lawyers performing services.

(h) The contingency or certainty of a fee.

(2) If the claimant should prevail in any proceedings before a deputy commissioner, commission, or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the claimant's attorney's fees. A claimant shall be responsible for the payment of his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom he successfully asserts a claim for medical benefits only which does not include a claim for disability, permanent impairment, or wage-loss benefits; or

(b) In cases where the deputy commissioner concludes by the issuance of an order that a carrier has acted in bad faith with regard to handling an injured worker's claim and the injured worker has suffered economic loss. For the purposes of this paragraph, "bad faith" means conduct by the carrier in the handling of a claim which amounts to fraud, malice, oppression or willful, wanton or reckless disregard for the rights of the claimant. Any determination of bad faith shall be made by the deputy commissioner through a separate fact-finding proceeding; or

(c) In a proceeding where a carrier or employer denies that an injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of coverage.

In the situations set forth in paragraph (b) the payment of such attorney's fees shall not be recouped, directly or indirectly, by any carrier in the rate base, premium, or any rate filing.

(3) In such cases where the claimant is responsible for the payment of his own attorney's fees, such fees shall be a lien upon compensation payable to the claimant notwithstanding the provisions of s. 440.22.

Section 28. Paragraph (f) of subsection (2) of section 440.37, Florida Statutes, 1978 Supplement, is amended to read:

440.37 Misrepresentation; fraudulent activities; penalties.—

(2)

(f) It is unlawful for any attorney or other person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association to unlawfully solicit any business in and about city or county hospitals, courts, or any public institution or public place; in and about private hospitals or sanitariums; in and about any private institution; or upon private property of any character whatsoever for the purpose of making *workers' workmen's* compensation claims. Any person who violates the provisions of this paragraph is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court finds probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to the appropriate state attorney a copy of the findings of probable cause and a copy of the report being filed in the matter.

Section 29. Section 440.38, Florida Statutes, 1978 Supplement, is amended to read:

440.38 Security for compensation.—

(1) Every employer shall secure the payment of compensation under this chapter:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state, or

(b) By furnishing satisfactory proof to the division of his financial ability to pay such compensation and receiving an authorization from the division to pay such compensation directly. The division may, as a condition to such authorization, require such employer to deposit in a depository designated by the division either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the division, and subject to such conditions as the division may prescribe, which shall include authorization to the division in case of default to sell any such securities sufficient to pay compensation awards or to bring suit upon such bonds, to procure prompt payment of compensation under this chapter. *In addition, the division shall require, as a condition to authorization to self-insure, proof that the employer has provided for competent personnel with which to deliver benefits and to provide a safe working environment. Further, the division shall require such employer to carry reinsurance at levels that will insure the actuarial soundness of such employers in accordance with rules promulgated by the division.* Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer, and shall be classed as a carrier of his own insurance. *On or before January 31, 1980, the division shall adopt rules creating a guaranty fund for individual self-insurers authorized under this paragraph, and said self-insurers, other than individual self-insurers which are public utilities or governmental entities, shall participate in such fund. Said guaranty fund shall become effective on July 1, 1980.*

(c) *The division shall adopt rules by which businesses may become qualified to provide underwriting claims-adjusting, loss control, and safety engineering services to self-insurers.*

(d) *The division shall adopt rules requiring self-insurers to file any reports necessary to fulfill the requirements of this chapter. Any self-insurer who fails to file any report as prescribed by the rules adopted by the division shall be subject to a civil penalty not to exceed \$100 for each such failure.*

(2) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause, ~~may~~ upon recommendation of the division, be suspended or revoked by the Department of Insurance for good cause. No suspension or revocation shall affect the liability of any carrier already incurred.

(3) The division shall ~~may~~ suspend or revoke any authorization to a self-insurer for a good cause. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(4)(a) No carrier of insurance, including the parties to any mutual, reciprocal, or other association, shall write any compensation insurance under this chapter without a permit

from the Department of Insurance. Such permit shall be given upon application therefor to any insurance or mutual or reciprocal insurance association upon the said department being satisfied of the solvency of such corporation or association and its ability to perform all its undertakings. The said department may revoke any permit so issued for violation of any provision of this chapter.

(b) *No carrier of insurance, including the parties to any mutual, reciprocal, or other association, shall write any compensation insurance under this chapter unless such carrier shall have a claims adjuster, either in-house or under contract, situated within the State of Florida.*

(c) ~~(b)~~ Any insurer, rating bureau, agent or other representative or employee of any insurer or rating bureau failing to comply with or which is guilty of a violation of any of the provisions of this chapter, or of any order or ruling of the Department of Insurance made hereunder, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. In addition thereto, the license of any insurer, agent, or broker guilty of such violation may be revoked or suspended by the department.

(5) All insurance carriers authorized to write *workers' workmen's* compensation insurance in this state shall make available, at the option of the employer, an insurance policy containing a coinsurance provision which shall bind the carrier to pay 80 percent, and the employer to pay 20 percent, of the ~~medical~~ benefits due to an employee for an injury compensable under this chapter, up to the amount of \$2,500 or \$5,000. One hundred percent of the medical benefits above \$2,500 or \$5,000, as the case may be, due to an employee for one injury shall be paid by the carrier. Regardless of any coinsurance or deductible amount, the claim shall be paid by the applicable carrier, which shall then be reimbursed by the employer for any coinsurance or deductible amounts paid by the carrier and *the employer shall be liable for such reimbursement except for any portion of a claim for medical benefits up to the employer's liability under the coinsurance or deductible provisions. If a claim or a portion of a claim is for medical benefits, the benefits shall be paid by the employer and the carrier shall act as guarantor therefor. Payments made by an employer pursuant to a coinsurance provision shall be made within the same time periods as those applicable to a carrier. The employer shall be liable for such reimbursement. Prior to issuance of any policy not containing a coinsurance provision, the carrier shall obtain from the employer a written rejection of such provision.* No insurance carrier shall be required to offer coinsurance to any employer if, as a result of a credit investigation, the carrier determines that the employer is not sufficiently financially stable to be responsible for payment of such coinsurance amounts. *The agent's commission shall be computed and paid on the basis of the policy without a coinsurance provision.*

(6) The state, its boards, bureaus, departments, and agencies and all its political subdivisions who employ labor shall be deemed self-insurers under the terms of this chapter unless they elect to procure and maintain insurance to secure the benefits of this chapter to their employees and they are hereby authorized to pay the premiums for the said insurance.

Section 30. Subsection (1) and paragraph (a) of subsection (3) of section 440.39, Florida Statutes, are amended to read:

440.39 Compensation for injuries where third persons are liable.—

(1) If an employee, subject to the provisions of the Florida *Workers' Workmen's* Compensation Law, is injured or killed in the course of his employment by the negligence or wrongful act of a third party tortfeasor, such injured employee, or in the case of his death his dependents, may accept compensation benefits under the provisions of this law, and at the same time such injured employee, his dependents or personal representatives may pursue his remedy by action at law or otherwise against such third party tortfeasor.

(3)(a) In all claims or actions at law against a third party tortfeasor, the employee, or his dependents or those entitled by law to sue in the event he is deceased, shall sue for the employee individually and for the use and benefit of the employer, if a self-insurer, or employer's insurance carrier, in the event compensation benefits are claimed or paid, and such suit may be brought in the name of the employee or his dependents or those entitled by law to sue in the event he is deceased, as plaintiff or, at the option of such plaintiff, may be brought in the name of such plaintiff and for the use and benefit of the employer or insurance carrier, as the case may be. Upon

suit being filed, the employer or the insurance carrier, as the case may be, may file in the suit a notice of payment of compensation and medical benefits to the employee or his dependents, which said notice shall be recorded and the same shall constitute a lien upon any judgment or settlement recovered to the extent that the court may determine to be their pro rata share for compensation and medical benefits paid or to be paid under the provisions of this law. The employer or carrier shall recover from the judgment, after attorney's fees and costs incurred by the employee or dependent in that suit have been deducted, 100 percent of what it has paid and future benefits to be paid, unless the employee or dependent can demonstrate to the court that he did not recover the full value of damages sustained because of comparative negligence or because of limits of insurance coverage and collectibility. The burden of proof will be upon the employee. Such proration shall be made by the judge of the trial court upon application therefor and notice to the adverse party. Notice of suit being filed shall be served upon the employer and compensation carrier and upon all parties to the suit or their attorneys of record by the employee. Notice of payment of compensation benefits shall be served upon the employee and upon all parties to the suit or their attorneys of record by the employer and compensation carrier. Notice of suit being filed and notice of payment of compensation benefits shall be served upon the compensation carrier and upon all parties to the suit or their attorneys of record.

Section 31. Subsections (2) and (3) of section 440.41, Florida Statutes, are amended to read:

440.41 Substitution of carrier for employer.—In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect of such liability may be facilitated, the division shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer in respect of such liability, imposed by this chapter upon the employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes:

(2) Jurisdiction of the employer by the *deputy commissioners judges of industrial claims*, the division, the commission, or any court under this chapter shall be jurisdiction of the carrier.

(3) Any requirement by the *deputy commissioners judges of industrial claims*, the division, the commission, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

Section 32. Subsection (3) of section 440.42, Florida Statutes, is amended to read:

440.42 Insurance policies; liability.—

(3) When there is any controversy as to which of two or more carriers is liable for the discharge of the obligations and duties of one or more employers with respect to a claim for compensation, remedial treatment or other benefits under this chapter, the *deputy commissioner judge of industrial claims* shall have jurisdiction to adjudicate such controversy; and if one of the carriers voluntarily or in compliance with a compensation order makes payments in discharge of such liability and it is finally determined that another carrier is liable for all or any part of such obligations and duties with respect to such claim, the carrier which has made payments either voluntarily or in compliance with a compensation order shall be entitled to reimbursement from the carrier finally determined liable, and the *deputy commissioner judge of industrial claims* shall have jurisdiction to order such reimbursement; however, if the carrier finally determined liable can demonstrate that it has been prejudiced by lack of knowledge or notice of its potential liability, such reimbursement shall be only with respect to payments made after it had knowledge or notice of its potential liability.

Section 33. Subsections (2), (3), and (4) of section 440.44, Florida Statutes, 1978 Supplement, are amended to read:

440.44 *Workers' Workmen's* compensation; staff organization.—

(2) *INTENT*.—It is the intent of the Legislature that the division assume an active and forceful role in its administra-

tion of this act so as to ensure that the system operates efficiently and with maximum benefit to both employers and employees. **BUREAU CREATED.** There is created, within the Division of Labor of the Department of Commerce, a Bureau of Workmen's Compensation, and, except as otherwise provided, the division shall administer the provisions of this act through this bureau.

(3) *EXPENDITURES BUREAU CHIEF; EXPENSES; ETC.*—

(a) Under the direction and supervision of the division, the Bureau of Workmen's Compensation shall be administered by a full time chief, who may exercise all powers, duties, and functions vested in the division by this chapter, except that this provision shall not be construed as a limitation on the authority of the division.

(b) The division shall make such expenditures including expenditures for personal services and rent at the seat of government and elsewhere, for law books, for telephone services and WATS lines, for books of reference, periodicals, equipment and supplies, and for printing and binding as may be necessary in the administration of this chapter. All expenditures of the division in the administration of this chapter shall be allowed and paid as provided in s. 440.50 upon the presentation of itemized vouchers therefor approved by the division.

(4) *MERIT SYSTEM PRINCIPAL OF PERSONNEL ADMINISTRATION.*—Subject to the other provisions of this chapter, the division is authorized to appoint, and prescribe the duties and powers of, a bureau chief, attorneys, accountants, medical advisers, technical assistants, inspectors, claims examiners, and such other employees as may be necessary in the performance of its duties under this chapter.

Section 34. Section 440.442, Florida Statutes, 1978 Supplement, is amended to read:

440.442 Code of Judicial Conduct.—Industrial relations commissioners and *deputy commissioners judges of industrial claims* shall observe and abide by the Code of Judicial Conduct adopted by the Supreme Court of Florida as of July 1, 1978, as well as all amendments thereto that are hereafter adopted by the court. Any material violation of a canon of the Code of Judicial Conduct shall constitute either malfeasance or misfeasance in office and shall be grounds for suspension and removal of such commissioner or *deputy commissioner by the Governor judge pursuant to the provisions of s. 7, Art. IV of the State Constitution and all general laws implementing that provision.*

Section 35. Section 440.45, Florida Statutes, 1978 Supplement, is amended to read:

440.45 *Deputy commissioners Judges of industrial claims.*—

(1) The Governor shall appoint as many full-time *deputy commissioners judges of industrial claims* as may be necessary to effectually perform the duties prescribed for them under this chapter. The Governor shall initially appoint a *deputy commissioner judge* from a list of at least three persons nominated by the appellate district judicial nominating commission for the appellate district in which the *deputy commissioner judge* will principally conduct hearings. *The meetings and determinations of the Judicial Nominating Commission as to the deputy commissioners shall be open to the general public.* No person shall be nominated or appointed as a full-time *deputy commissioner judge of industrial claims* who has not had 3 years' experience in the practice of law in this state; and no *deputy commissioner judge of industrial claims* shall engage in the private practice of law during a term of office. The Governor may appoint any former *deputy commissioner judge of industrial claims* to serve as a *deputy commissioner judge of industrial claims pro hoc vice* to complete the proceedings on any claim with respect to which the *deputy commissioner judge* had heard testimony and which remained pending at the time of the expiration of the *deputy commissioner's judge's* term of office. However, no former *deputy commissioner judge of industrial claims* shall be appointed to serve as a *deputy commissioner judge of industrial claims pro hoc vice* for a period to exceed 60 successive days.

(2) Each full-time *deputy commissioner judge of industrial claims* shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause.

Prior to the expiration of the term of office of the *deputy commissioner judge of industrial claims*, the conduct of said *deputy commissioner judge* shall be reviewed by the appellate district judicial nominating commission in the appellate district in which the *deputy commissioner judge* principally conducts hearings, which commission shall determine whether said *deputy commissioner judge* shall be retained in office. A report of the decision shall be furnished to the Governor no later than 6 months prior to the expiration of the term of the *deputy commissioner judge of industrial claims*. If the judicial nominating commission votes not to retain the *deputy commissioner judge of industrial claims*, the *deputy commissioner judge* shall not be reappointed but shall remain in office until a successor is appointed and qualified. If the judicial nominating commission votes to retain the *deputy commissioner judge of industrial claims* in office, then the Governor shall reappoint said *deputy commissioner judge* for a term of 4 years.

(3) *The deputy commissioners shall be within the Department of Labor and Employment Security under the secretary of that department. To assist the secretary in the administration of the deputy commissioners, there shall be created the position of Chief Commissioner within the secretary's office. Such chief commissioner shall not be subject to the provisions of subsections (1), (2), (4), or (5), but shall be appointed directly by the Governor. The duties of the chief commissioner shall include, but not be limited to, the following:*

(a) *To be responsible for the coordination of the deputy commissioners, and to serve as liaison between the deputy commissioners and the Division of Workers' Compensation of the Department of Labor and Employment Security, and between the deputy commissioners and the First District Court of Appeal, and between all the aforementioned parties and the department.*

(b) *To serve as a liaison between the deputy commissioners and the division making certain that all requirements of personnel, office space, equipment, supplies, research material, law books, and court reporters are provided when needed.*

(c) *To determine the consensus of deputy commissioners as relates to matters of concern to them and to present these views to the division on behalf of the deputy commissioners.*

(d) *To act as liaison between the First District Court of Appeal and the deputy commissioners for the purpose of promoting the workers' compensation jurisprudence and improving the system of disposition of cases at the trial and appellate levels, including, but not limited to, discussions regarding amendments in procedural rules, guidelines for preparation of transcripts on appeal, and dissemination of case law decisions.*

(e) *To arrange for exchange between the deputy commissioners and the division in matters of mutual interest, including, but not limited to, relations with court reporters, case load distribution, case disposition, needed changes in forms used by the deputy commissioners, and determination of reasons for delays in the issuing of orders.*

(f) *To serve as liaison with the Division of Workers' Compensation; Workers' Compensation Section of The Florida Bar; Workers' Compensation Advisory Council; and the department.*

(g) *To serve as a "pro hac vice" deputy commissioner in the various parts of the state as determined by temporary changes in case load and as due to annual and sick leave taken.*

(h) *To assure a blind system of case assignment among deputy commissioners within the various districts, and to undertake appropriate measures to keep dockets current for the deputy commissioners.*

(i) *To be responsible for the training and orientation of new deputy commissioners.*

(j) *Among other duties of the chief commissioner, it shall be his or her responsibility to insure that administrative matters, including hearing delays, docket scheduling, review of joint petitions after entry by the deputy commissioners, and all matters of case distribution, shall be effectively handled in accordance with this chapter. It shall also be the duty of the chief commissioner to report flagrant violations in these matters directly to the secretary and the Governor. In no event shall the chief commissioner, in handling these duties, interfere in any way with the judicial discretion of the First District Court of*

Appeals, or the quasi-judicial discretion of the deputy commissioners, in the independent decisions on matters before same for decision.

(k) *Any and all other matters which he or she deems necessary for the efficient handling of workers' compensation cases, including the appointments made pursuant to s. 20.17(3)(a)2.*

(4)(3) *Each full-time deputy commissioner judge of industrial claims shall receive a salary of \$4,000 less per year than that paid to a full-time district court of appeal judge industrial relations commissioner, payable out of the fund established in s. 440.50. The chief commissioner shall receive a salary of \$1,000 more per year than that paid to a full-time deputy commissioner.*

(5)(4) *The Governor may appoint any attorney who has 3 years' experience in the practice of law in this state to serve as a deputy commissioner judge of industrial claims pro hac vice in the absence or disqualification of any full-time deputy commissioner judge of industrial claims or to serve upon a temporary basis as an additional deputy commissioner judge of industrial claims in any area of the state in which it is determined by the Governor that a need exists therefor; however, no attorney so appointed by the Governor shall serve for a period to exceed 60 successive days.*

(6)(5) *The division may delegate to its attorneys, examiners, safety representatives, field agents, inspectors, and other legal representatives such powers and authority as it may deem necessary in the administration of this chapter.*

Section 36. Section 440.47, Florida Statutes, is amended to read:

440.47 *Traveling expenses.*—The commission, *deputy commissioner judges of industrial claims*, and employees of the commission and division shall be reimbursed for traveling expenses as provided in s. 112.061. Such expenses shall be sworn to by the person who incurred the same and shall be allowed and paid as provided in s. 440.50 upon the presentation of vouchers therefor approved by the commission or division, whichever is applicable.

Section 37. Section 440.49, Florida Statutes, 1978 Supplement, is amended to read:

(Substantial rewording of s. 440.49(1)-(4). See s. 440.49(1)-(4), F.S., 1978 Supp., for present text.)

440.49 *Rehabilitation of injured employees; Special Disability Trust Fund.*—

(1) *When an employee has suffered an injury covered by this chapter and it appears that the injury will preclude the employee from earning wages equal to wages earned prior to the injury, the employee shall be entitled to prompt rehabilitation services. The employer or carrier, at its own expense, shall provide such injured employee with appropriate training and education for suitable gainful employment and may cooperate with federal and state agencies for vocational education and with any public or private agency cooperating with such federal and state agencies in the vocational rehabilitation of such injured employees. For purposes of this section only, suitable gainful employment means employment or self-employment which is reasonably attainable in light of the individual's age, education, previous occupation and injury and which offers an opportunity to restore the individual as soon as practical and nearly as possible to his average weekly earnings at the time of injury. If such services are not voluntarily offered or accepted, the Division of Workers' Compensation of the Department of Labor and Employment Security, upon application of the employee, employer or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for the evaluation of the practicality of, the need for, and the kind of service, treatment, or training, necessary and appropriate to restore the employee to suitable gainful employment. On receipt of such report, and after affording the parties an opportunity to be heard, the deputy commissioner may order that the service and treatment recommended in the report, or such other rehabilitation treatment or service deemed necessary, be provided at the expense of the employer or carrier.*

(2) *The Division of Workers' Compensation shall continuously study the issue of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all*

qualified rehabilitation facilities and agencies, both public and private.

(3) Prior to adjudicating an injured employee to be permanently and totally disabled, the deputy commissioner shall determine whether there is reasonable probability that, with appropriate training or education, the injured employee may be rehabilitated to the extent that such employee can achieve suitable gainful employment and whether it is in the best interest of such individual to undertake such training or education.

(4) When it appears that rehabilitation is necessary and desirable to restore the injured employee to suitable gainful employment, the employee shall be entitled to reasonable and proper rehabilitation services for a period not to exceed 26 weeks, which period may be extended for an additional period not to exceed 26 additional weeks, if such extended period is determined to be necessary and proper by the deputy commissioner. However, no carrier or employer shall be precluded from continuing such rehabilitation beyond such period on a voluntary basis. If rehabilitation requires residence at or near the facility or institution and away from the employee's customary residence, reasonable cost of board, lodging, or travel, shall be borne by the employer or carrier. Refusal to accept rehabilitation as deemed necessary by the deputy commissioner shall result in a 50 percent reduction in weekly compensation including wage-loss benefits as determined pursuant to s. 440.15(3)(b), for each week of the period of refusal.

(5) Temporary disability benefits paid pursuant to s. 440.15(2)(a) and s. 440.15(4) shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training or education under a rehabilitation program pursuant to subsections (1) and (4). Notwithstanding s. 440.02(22), the date of maximum medical improvement, for purposes of s. 440.15(3)(b), shall be no earlier than the last day for which such temporary disability benefits are paid.

(6) Any person who offers to secure employment or help or who gives information as to where such employment or help may be secured, and who performs such acts exclusively in conjunction with fulfilling his responsibilities under this chapter to rehabilitate injured or disabled individuals, shall be exempt from the provisions of chapter 449, relating to private employment agencies.

(7)(5) **LIMITATION OF LIABILITY FOR SUBSEQUENT INJURY THROUGH SPECIAL DISABILITY TRUST FUND.—**

(a) Legislative intent.—It is the purpose of this subsection to encourage the employment of the physically handicapped by protecting employers from excess liability for compensation and medical expense when an injury to a handicapped worker merges with his preexisting permanent physical impairment to cause a greater disability, *permanent impairment, or wage loss* than would have resulted from the injury alone. *The division shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.*

(b) Definitions.—As used in this subsection:

1. "Permanent physical impairment" means any permanent condition due to previous accident or disease or any congenital condition which is, or is likely to be, a hindrance or obstacle to employment, but not due to the natural aging process.

2. "Merger" describes or means that:

a. Had the permanent physical impairment not existed, the subsequent accident or occupational disease would not have occurred;

b. The permanent disability, *permanent impairment, or wage loss* resulting from the subsequent accident or occupational disease is materially and substantially greater than

that which would have resulted had the permanent physical impairment not existed and the employer has been required to pay, and has paid, permanent *total disability, permanent impairment, or wage-loss disability compensation* benefits for that materially and substantially greater disability; or

c. Death would not have been accelerated had the permanent physical impairment not existed.

3. "Excess permanent compensation" means that compensation for permanent *impairment, wage-loss benefits, or permanent total disability or death* benefits for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(c) Permanent *impairment, wage loss, or permanent total disability* after other physical impairment.—

1. *Permanent impairment Partial disability.*—If an employee who has a *preexisting* permanent physical impairment incurs a subsequent disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause a permanent *impairment partial disability*, the employer shall, in the first instance, pay all benefits provided by this chapter, but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for the last 60 percent of all *impairment benefits compensation for permanent partial disability* which the employer has been required to provide pursuant to s. 440.15(3)(a) as a result of the subsequent accident or occupational disease.

2. *Wage loss.*—If an employee who has a *preexisting permanent physical impairment* incurs a subsequent permanent *impairment from injury or occupational disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause a wage loss*, the employer shall, in the first instance, pay all benefits provided by this chapter, but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for 60 percent of all compensation for wage loss which the employer has been required to provide pursuant to s. 440.15(3)(b) during the first 5 years after the date of maximum medical improvement and for 75 percent of all compensation for wage loss which the employer has been required to provide after the 5-year period following the date of maximum medical improvement.

3. *Permanent total disability.*—If an employee who has a *preexisting permanent physical impairment* incurs a subsequent permanent *impairment disability* from injury or occupational disease arising out of, and in the course of, his employment which merges with the preexisting permanent physical impairment to cause permanent total disability, the employer shall, in the first instance, pay all benefits provided by this chapter, but, subject to the limitations specified in paragraph (f), such employer shall be reimbursed from the Special Disability Trust Fund created by paragraph (h) for all compensation for permanent total disability which is in excess of the first 175 weeks of permanent total disability compensation.

(d) When death results.—If death results from the subsequent *permanent impairment disability* contemplated in paragraph (c) within 1 year after the subsequent injury, or within 5 years after the subsequent injury when disability has been continuous since the subsequent injury, and it shall be determined that the death resulted from a merger, the employer shall, in the first instance, pay the funeral expenses and the death benefits prescribed by this chapter but, subject to the limitations specified in paragraph (f), he shall be reimbursed from the Special Disability Trust Fund created by this subsection for the last 75 percent of all compensation allowable and paid for such death and for 75 percent of the amount paid as funeral expenses.

(e) Reimbursement for compensation paid for *temporary disability or medical benefits permanent disability or death.*—Subject to the limitations specified in paragraph (f), and when the preexisting permanent physical impairment has contributed to the need either medically or circumstantially, for temporary disability and remedial treatment, care, and attendance, an employer entitled to reimbursement from the Special Disability Trust Fund for compensation paid for permanent *impairment, wage loss, permanent total disability or death* shall be reimbursed from said fund for 50 percent of the first \$10,000 paid

as compensation for temporary disability and remedial treatment, care, and attendance pursuant to s. 440.13, for the same injury; thereafter, the employer shall be reimbursed from said fund for all sums paid by the employer as compensation for temporary disability and remedial treatment, care, and attendance pursuant to s. 440.13 which are in excess of \$10,000. However, any amount in excess of \$1,500 which is designated as consideration for future remedial treatment, care, and attendance in discharge of an employer's liability pursuant to the provisions of subsection 440.20(10) in which the employee is not permanently and totally disabled shall be reclassified for the purposes of this subsection as compensation for permanent disability.

(f) Reimbursement limitations.—

1. No reimbursement shall be allowed under this subsection unless the total amount otherwise reimbursable to the employer with respect to any case is \$3,000 or more and it is established that the employer reached an informed conclusion prior to the occurrence of the subsequent injury or occupational disease that the preexisting physical condition is permanent and is, or is likely to be, a hindrance or obstacle to employment. However, when the employer establishes that he knew of the preexisting permanent physical impairment prior to the subsequent accident or occupational disease, there shall be a conclusive presumption that the employer considered the condition to be a permanent and to be, or likely to be, a hindrance or obstacle to employment, when said condition is one of the following:

- a. Epilepsy.
- b. Diabetes.
- c. Cardiac disease.
- d. Marie-Strumpell disease.
- e. Amputation of foot, leg, arm, or hand.
- f. Total loss of sight of one or both eyes or a partial loss of corrected vision of more than 75 percent bilaterally.
- g. Residual disability from poliomyelitis.
- h. Cerebral palsy.
- i. Multiple sclerosis.
- j. Parkinson's disease.
- k. Vascular disorder.
- l. Psychoneurotic disability following confinement for treatment in a recognized medical or mental institution for a period in excess of 6 months.
- m. Hemophilia.
- n. Chronic osteomyelitis.
- o. Ankylosis of a major weight-bearing joint.
- p. Hyperinsulinism.
- q. Muscular dystrophy.
- r. Thrombophlebitis.
- s. Herniated intervertebral disc.
- t. Surgical removal of an intervertebral disc or spinal fusion.
- u. Total deafness.
- v. Mental retardation, provided the employee's intelligence quotient is such that he falls within the lowest 2 percentile of the general population. However, it shall not be necessary for the employer to know the employee's actual intelligence quotient or actual relative ranking in relation to the intelligence quotient of the general population.

w. Any permanent physical condition which, prior to the industrial accident or occupational disease, constitutes a 20-percent impairment of a member or of the body as a whole.

2. The Special Disability Trust Fund shall not be liable for any costs, interest, penalties, or attorneys' fees.

3. An employer's or carrier's right to apportionment or deduction pursuant to ss. 440.02 (18) (19), 440.15(5)(b)(c), and

440.151(1)(c) shall not preclude reimbursement from said fund except when the merger comes within the definition of *paragraph sub-paragraph* (b)2.b. and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in said paragraphs.

(g) Reimbursement of employer.—The right to reimbursement as provided in this subsection shall be barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the division at Tallahassee prior to 60 days after the order awarding the excess permanent compensation with respect to which such reimbursement is claimed becomes final or, if payment of such excess permanent compensation is made by the employer or carrier without an award, prior to 60 days after the date the first payment of excess compensation for the permanent disability was made. The notice of claim shall contain such information as the division by rule or regulation may require; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the division reasonably may require. For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve the notice shall be deemed a denial by the Special Disability Trust Fund of the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the division at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that same is applicable, and in accordance with the *workers' workmen's* compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20 (12) (19), shall be res judicata. The Special Disability Trust Fund shall not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund. When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed periodically every 6 months from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which same is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the division.

(h)1. Special Disability Trust Fund.—There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this subsection, and the assets thereof shall not at any time be appropriated or diverted to any other use or purpose. The State Treasurer shall be the custodian of such fund and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The State Treasurer is authorized to disburse moneys from such fund only when approved by the division and upon the order of the Comptroller, countersigned by the Governor. The State Treasurer shall deposit any moneys paid into such fund into such depository banks as the division may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the State Treasurer shall be collected by him and placed to the credit of such fund.

2. Payments to Special Disability Trust Fund.—The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state and the self-insurers under this chapter, commencing with the fiscal year beginning July 1, 1963, which assessments shall become due and be paid on a quarterly basis at the same time and in addition to the assessments provided in s. 440.51. The division shall estimate annually in advance

the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which—when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of \$100,000—is equal to the sum of disbursements from the fund during the immediate past 3 calendar years. Such amount shall be prorated among the insurance companies writing compensation insurance in the state and self-insurers. The net premiums collected by the companies on ~~workers' workmen's~~ compensation premiums in this state and the amount of premiums a self-insurer would have to pay in this state if insured are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each insurance company and self-insurer to the division for the Special Disability Trust Fund, in accordance with such regulations as the division may prescribe. The State Treasurer is hereby authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(i) The division shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before ~~deputy commissioners judges of industrial claims~~ and the commission, and judicial review. Upon the application of the division or any party in interest, the commission may, in accordance with the procedure prescribed in s. 440.25, review orders of ~~deputy commissioners judges of industrial claims~~ by which the fund may be adversely affected. The division or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund; and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like, as may be necessary to the proper defense of any claim. The division shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for traveling expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this subsection upon the presentation of itemized vouchers therefor approved by the division.

(j) Effective dates.—The provisions of this subsection shall not be applicable to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease shall have occurred prior to July 1, 1955; and the provisions of paragraphs (e) and (f) of this subsection shall not be applicable to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease shall have occurred prior to July 1, 1963.

Section 38. Paragraph (a) of subsection (1) of section 440.50, Florida Statutes, is amended to read:

440.50 ~~Workers' Workmen's~~ Compensation Administration Trust Fund.—

(1)(a) There is established in the State Treasury a special fund to be known as the "Workers' ~~Workmen's~~ Compensation Administration Trust Fund" for the purpose of providing for the payment of all expenses in respect to the administration of this chapter, including the vocational rehabilitation of injured employees as provided in s. 440.49 and the payments due under s. 440.15(1)(e). Such fund shall be administered by the division. The State Treasurer shall be the custodian of such funds and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state.

Section 39. Subsections (5) and (8) of section 440.51, Florida Statutes, are amended to read:

440.51 Expenses of administration.—

(5) Any amount so assessed against and paid by an insurance carrier shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments or deposits for ~~workers' workmen's~~ compensation insurance on contracts or policies of said insurance carrier.

(8) The division shall assign an account number to each employer under this chapter and an account number to all insurance carriers authorized to write ~~workers' workmen's~~ compensation insurance in the state, and it shall be the duty of the division under the account number so assigned to keep the cost experience of each carrier and the cost experience of each employer under the account number so assigned by calendar and policy year as above defined.

Section 40. Subsection (2) of section 440.52, Florida Statutes, is amended to read:

440.52 Registration of insurance carriers; suspension or revocation of authority.—

(2) If the division finds after due notice and hearing, at which the insurance carrier is entitled to be heard in person or by counsel and present evidence, that the insurance carrier has repeatedly failed to comply with its obligations under this chapter, the division may request the Department of Insurance to suspend or revoke the authorization of such insurance carrier to write ~~workers' workmen's~~ compensation insurance under this chapter. Such suspension or revocation shall not affect the liability of any such insurance carrier under policies in force prior to the suspension or revocation.

Section 41. Section 440.54, Florida Statutes, is amended to read:

440.54 Violation of Child Labor Law.—If the ~~deputy commissioner judge of industrial claims~~ determines that the injured employee at the time of the accident is a minor employed, permitted or suffered to work in violation of any of the provisions of the child labor laws of Florida, the employer shall, in addition to the normal compensation and death benefits provided by this chapter, pay such additional compensation as the ~~deputy commissioner judge of industrial claims~~ may determine according to the circumstances of the case or the seriousness of the violation, provided that the total compensation so payable shall not exceed double the amount otherwise payable under this chapter. The employer alone and not the insurance carrier shall be liable for the increased compensation or increased death benefits provided for by this section. Any provision in an insurance policy undertaking to protect an employer from such increased liability shall be void.

Section 42. Subsections (4), (5), (6), and (7) of section 440.56, Florida Statutes, 1978 Supplement, are renumbered as subsections (5), (6), (7), (8), respectively, and new subsection (4) is added to said section to read:

440.56 Safety rules and provisions; penalty.—

(4) All insurance carriers writing ~~workers' compensation~~ insurance in this state and all employers qualifying as self-insurers under ss. 440.38 and 440.57 shall provide safety consultations to each of their policyholders requesting such consultations. All such carriers and self-insurers shall inform their policyholders of the availability of such consultations and shall report annually on their safety programs and consultations to the division in such form and at such time as the division shall prescribe. The division shall be responsible for approving all safety programs. The division shall aid all insurance carriers and self-insurers in establishing their safety programs by setting out guidelines in an appropriate format. In addition, the division may approve a safety program submitted to it by a carrier or self-insurer.

Section 43. Section 440.57, Florida Statutes, 1978 Supplement, is amended to read:

440.57 Pooling liabilities.—

(1) The division shall adopt rules permitting ~~may, under~~ such rules and regulations as it may prescribe, permit two or more employers to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as a group self-insurer's fund, which shall be classified as a self-insurer ~~self-insurers~~, and each employer member of such approved group

shall be known as a group self-insurer's fund member and shall be classified as a self-insurer as defined in this chapter. The agreement entered into under this section may provide that the pool shall be liable for 80 percent, and the employer member shall be liable for 20 percent, of the medical benefits due any employee for an injury compensable under this chapter up to the amount of \$5,000. One hundred percent of the medical benefits above \$5,000 due to an employee for one injury shall be paid by the pool. The agreement may also provide that each employer member shall be responsible for the first \$100 of medical benefits due each of its employees for each injury. The claim shall be paid by the pool, regardless of its size, which shall be reimbursed by the employer for any amounts required to be paid by the employer under the agreement.

(2) *The division shall adopt rules:*

(a) *Requiring monetary reserves to be maintained by such self-insurers to insure their financial solvency; and*

(b) *Governing their organization and operation to assure compliance with such requirements.*

(3) *The division shall promulgate rules implementing the reserve requirements in accordance with accepted actuarial techniques.*

(4) *Any self-insurer established under this section, except for self-insurers which are state or local governmental entities, shall be required to carry reinsurance in accordance with rules promulgated by the division.*

(5) *The division may impose civil penalties not to exceed \$100 per occurrence for violations of the provisions of this chapter or rules adopted pursuant hereto.*

Section 44. Section 440.58, Florida Statutes, is amended to read:

440.58 Self-insurer members; payment of delinquent premiums and assessments.—Upon petition of the trustees of the following self-insurers groups: Printing Industry Associates, Allied Gasoline Retailers Association, Florida Plumbing and Mechanical Contractors, Florida State Retailers Association, Automotive Industries of Florida, Florida Nurserymen and Growers Association, Florida Pest Control Association, Florida Wholesalers Association, Florida Electrical Contractors, Florida Home Builders, Florida Restaurant Association, and Florida Nursing Home Association, who entered into agreements with Robert F. Coleman of Florida, Inc., as servicing agent, or any other self-insurers groups similarly situated, the division shall enter its order requiring the employer members and former members of said groups liable therefor to pay all delinquent premiums and all necessary assessments, such payments to be paid to the division and by it disbursed to said trustees to be used for the payment of *workers' workmen's* compensation claims and related compensation expenses.

Section 45. Section 440.59, Florida Statutes, 1978 Supplement, is amended to read:

440.59 Risk management report.—The Division of *Workers' Compensation Labor* of the Department of *Labor and Employment Security Commerce* shall complete on a quarterly basis an analysis of the previous quarter's injuries which resulted in *workers' workmen's* compensation claims. The analysis shall be broken down by risk classification, shall show for each such risk classification the frequency and severity for the various types of injury, and shall include an analysis of the causes of such injuries. The division shall distribute to each employer and self-insurer in the state covered by the *Workers' Workmen's* Compensation Law the data relevant to its work force. The report shall also be distributed to the insurers authorized to write *workers' workmen's* compensation insurance in the state.

Section 46. Subsection (3) of section 20.17, Florida Statutes, 1978 Supplement, is repealed effective March 1, 1980. In order to effectuate this repeal, the Industrial Relations Commission shall not accept any cases for review after the effective date of this act and shall complete review of all cases accepted prior to the effective date of this act by March 1, 1980.

All appeals from orders of the deputy commissioners after the effective date of this act shall be directly to the First District Court of Appeal as provided by law. The statutory revision division of the Joint Legislative Management Committee is hereby directed to make all necessary changes to references to the Industrial Relations Commission wherever

they appear in Florida Statutes and further to prepare a revisor's bill statutorily to accomplish the aforesaid directive.

Section 47. Subsection (1) of section 20.171, Florida Statutes, 1978 Supplement, is amended to read:

20.171 Department of Labor and Employment Security.—

(1) The following divisions of the Department of Labor and Employment Security are established:

(a) Division of Labor.

(b) Division of Employment Security.

(c) Division of Administrative Services.

(d) *Division of Workers' Compensation.*

Section 48. Subsection (3) of section 23.127, Florida Statutes, is amended to read:

23.127 Powers, privileges, and immunities.—

(3) All of the privileges and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, *workers' workmen's* compensation, salary, death and other benefits which apply to the activity of such officers, agents, or employees of any such agency when performing their respective functions within the territorial limits of their respective public agencies shall apply to them to the same degree, manner, and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this mutual aid agreement. The provisions of this section shall apply with equal effect to paid, volunteer, and auxiliary employees.

Section 49. Subsection (9) of section 112.075, Florida Statutes, is amended to read:

112.075 State officers and employees group insurance program.—

(9) **INSURANCE SUPPLEMENTAL TO *WORKERS' WORKMEN'S* COMPENSATION LAW.**—The benefits of the insurance authorized by this law shall not be in lieu of any benefits payable under chapter 440, the Florida *Workers' Workmen's* Compensation Law. The insurance authorized by this law shall not be deemed to constitute insurance to secure the benefits of chapter 440, within the meaning of s. 440.38(5).

Section 50. Subsection (2) of section 112.08, Florida Statutes, is amended to read:

112.08 Group insurance for public officers and employees; certain volunteers.—

(2) A local governmental unit may, at its discretion, provide group insurance consistent with the provisions of this section for volunteer or auxiliary firefighters, volunteer or auxiliary law enforcement agents, [or] volunteer or auxiliary ambulance or emergency service personnel within its jurisdiction. No insurance provided to volunteer personnel shall be used in the computation of *workers' workmen's* compensation benefits or in the determination of employee status for the purposes of collective bargaining.

Section 51. Section 112.13, Florida Statutes, is amended to read:

112.13 Insurance additional to *workers' workmen's* compensation.—The insurance permitted and allowed under this law shall be in addition to, and in no manner in lieu of the provisions of the Florida *Workers' Workmen's* Compensation Law.

Section 52. Paragraph (a) of subsection (2) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement officers, death benefits.—

(2)(a) The sum of \$20,000 shall be paid as hereinafter provided when a law enforcement officer, while under 70 years of age and while engaged in the performance of any of the duties mentioned in paragraph (c) of subsection (1), is killed or receives bodily injury which results in the loss of his life within 180 days after being received, regardless of whether he is killed or such bodily injury is inflicted upon him intentionally or accidentally, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Such payment shall be in addition to any *workers' workmen's* compensation or pension benefits and shall be ex-

empt from the claims and demands of creditors of such law enforcement officer.

Section 53. Paragraph (a) of subsection (2) of section 112.191, Florida Statutes, 1978 Supplement, is amended to read:

112.191 Firemen; death benefits.—

(2)(a) The sum of \$20,000 shall be paid as hereinafter provided when a fireman, while under 70 years of age and while engaged in the performance of any of the duties mentioned in paragraph (1)(b), is killed or receives bodily injury which results in the loss of his life within 1 year after being received, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Such payment shall be in addition to any *workers' workmen's* compensation or pension benefits and shall be exempt from the claims and demands of creditors of such fireman.

Section 54. Paragraph (b) of subsection (1) and subsection (4) of section 112.3145, Florida Statutes, are amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires:

(b) "Specified employee" means:

1. Public counsel created by chapter 350; an assistant state attorney; an assistant public defender; a full-time state employee who serves as counsel or assistant counsel to any state agency; a *deputy commissioner judge of industrial claims*; and a hearing examiner.

2. Any person employed in the office of the Governor or in the office of any member of the cabinet, if that person is exempt from the career service system, except persons employed in clerical, secretarial, or similar positions.

3. Each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a mental health institute established for training and research in the mental health field; the superintendent or director of any major state institution or facility established for training, treatment, or rehabilitation; or any person having the power normally conferred on such persons by whatever title.

5. Business managers, purchasing agents, finance and accounting directors, personnel officers, and grants coordinators for any state agency, or persons having the power normally conferred upon such persons, by whatever title.

6. The Auditor General; the Sergeant-at-Arms and Secretary of the Senate; the Sergeant-at-Arms and Clerk of the House of Representatives; the Executive Director of the Joint Legislative Management Committee; the Director of Statutory Revision; and the staff director of each committee of the Legislature.

7. Each employee of the Commission on Ethics.

8. Any full-time state employee who, in addition to his regular duties, accepts compensation which in the aggregate exceeds \$250 for consultations with other state agencies or with other government or business entities.

(4) Each state officer, local officer, and specified employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters, before agencies at his level of government. For the purposes of this part, agencies of government shall be classified as state level agencies or agencies below state level. The report shall be filed only when a reportable representation is made during the calendar quarter and shall be filed no later than 15 days after the last day of the quarter. Representation before any agency shall be deemed to include representation by such officer or specified employee or by any partner or associate of the professional firm of which he is a

member and of which he has actual knowledge. For the purposes of this subsection, "representation before any agency" shall not include appearances before any court or ~~judges or~~ commissioners or *deputy commissioners* of industrial claims or representations on behalf of one's agency in his official capacity. Such term shall not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and necessity.

Section 55. Subsection (1) of section 120.52, Florida Statutes, 1978 Supplement, is amended to read:

120.52 Definitions.—As used in this act:

(1) "Agency" means:

(a) The Governor in the exercise of all executive powers other than those derived from the Constitution.

(b) Each other state officer and each state department, departmental unit described in s. 20.04, commission, regional planning agency, board, district, and authority, including, but not limited to, those described in chapters 160, 163, 298, 373, 380, and 582, except any legal entity or agency created in whole or in part pursuant to chapter 361, part II.

(c) Each other unit of government in the state, including counties and municipalities to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

Neither the Industrial Relations Commission nor the *deputy commissioners judges of industrial claims* shall, in the adjudication of *workers' workmen's* compensation claims, be considered an agency or part of an agency for the purposes of this act.

Section 56. Subsections (13), (14), and (17) of section 121.021, Florida Statutes, 1978 Supplement, are amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(13) "Disability in line of duty" means an injury or illness arising out of and in the actual performance of duty required by a member's employment during his regularly scheduled working hours or irregular working hours as required by the employer. The administrator may require such proof as he deems necessary as to the time, date, and cause of any such injury or illness, including evidence from any available witnesses. *Workers' Workmen's* compensation records under the provisions of chapter 440 may also be used.

(14) "Death in line of duty" means death arising out of and in the actual performance of duty required by a member's employment during his regularly scheduled working hours or irregular working hours as required by the employer. The administrator may require such proof as he deems necessary as to the time, date, and cause of death, including evidence from any available witnesses. *Workers' Workmen's* compensation records under the provisions of chapter 440 may also be used.

(17) "Creditable service" of any member means the sum of his past service, prior service, military service, *workers' workmen's* compensation credit, and future service allowed within the provisions of this chapter if all required contributions have been paid and all other requirements of this chapter have been met. However, in no case shall a member receive credit for more than a year's service during any 12-month period. Service as applied to a teacher or a nonacademic employee of a school board shall be based on contract years of employment or school term years of employment, as provided in chapters 122 and 238, rather than 12-month periods of employment.

Section 57. Section 121.125, Florida Statutes, is amended to read:

121.125 Credit for *workers' workmen's* compensation payments.—A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive *workers' workmen's* compensation payments for an injury or illness occurring during his employment while a member of

any state retirement system shall be subject to the following provisions:

(1) If the member receives no salary payments for the period of time he receives *workers' workmen's* compensation payments, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. No employee or employer contributions shall be required in order for the member to receive retirement credit for such period. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(2) If the member receives partial salary for the period of time he receives *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his partial salary each pay period, and, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(3) If the member is retained in full-pay status in lieu of receiving *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his salary each pay period and he shall receive retirement credit for such period in the same manner he would have received credit had he not been injured or incapacitated.

Section 58. Subsection (7) of section 122.03, Florida Statutes, is amended to read:

122.03 Contributions; participants; prior service credit.—

(7) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive *workers' workmen's* compensation payments for an injury or illness occurring during his employment while a member of any state retirement system shall be subject to the following provisions:

(a) If the member receives no salary payments for the period of time he receives *workers' workmen's* compensation payments, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. No employee or employer contributions shall be required in order for the member to receive retirement credit for such period. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(b) If the member receives partial salary for the period of time he receives *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his partial salary each pay period, and, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(c) If the member is retained in full-pay status in lieu of receiving *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his salary each pay period, and he shall receive retirement credit for such period in the same manner by which he would have received credit had he not been injured or incapacitated.

Section 59. Paragraph (c) of subsection (6) and subsections (7) and (8) of section 122.34, Florida Statutes, are amended to read:

122.34 Special provisions for certain sheriffs and full-time deputy sheriffs.—

(6)

(c) In determining the amount of pension to be received under this section, the benefits received in the form of *workers' workmen's* compensation and social security shall be considered, and the total monthly compensation shall not exceed one-half of the salary received by the deceased "high hazard" member at the time of his death. Provided, however, that should such total compensation exceed one-half of the monthly salary drawn by the deceased member at the time of his death, the pension herein provided for shall be reduced by the amount of such excess.

(7) Any "high hazard" member who becomes totally disabled as a result of occupation while in the performance of duty shall be retired and shall receive, in addition to the award made to him under the *Workers' Workmen's* Compensation Law, an annual pension payable monthly in an amount equal to not less than 45 percent of the annual salary of the member at the time of his disability, and he shall continue to receive the said pension so long as such disability exists.

(8) Any "high hazard" member who becomes partially disabled as a result of occupation while in the performance of duty shall be retired and shall receive, in addition to the award made to him under the *Workers' Workmen's* Compensation Law, an annual pension payable monthly in an amount equal to not less than 35 percent of the annual salary of the member at the time of his disability, and he shall continue to receive the said pension so long as such disability exists.

Section 60. Subsection (6) of section 123.03, Florida Statutes, is amended to read:

123.03 Transfer from other retirement systems; acceptance by nonmembers; payment of back contributions.—

(6) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive *workers' workmen's* compensation payments for an injury or illness occurring during his employment while a member of any state retirement system shall be subject to the following provisions:

(a) If the member receives no salary payments for the period of time he receives *workers' workmen's* compensation payments, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. No employee or employer contributions shall be required in order for the member to receive retirement credit for such period. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(b) If the member receives partial salary for the period of time he receives *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his partial salary each pay period, and, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(c) If the member is retained in full-pay status in lieu of receiving *workers' workmen's* compensation payments the required employee contributions shall be deducted from his salary each pay period and he shall receive retirement credit for such period in the same manner by which he would have received credit had he not been injured or incapacitated.

Section 61. Paragraph (a) of subsection (9) of section 163.01, Florida Statutes, is amended to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(9)(a) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pensions and relief, disability, *workers' workmen's* compensation and other benefits which apply to the activity of officers, agency, or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extra-territorially under the provisions of any such interlocal agreement.

Section 62. Section 185.34, Florida Statutes, is amended to read:

185.34 Disability in line of duty.—Any condition or impairment of health of any and all police officers employed in the state caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, re-

sulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty; provided, however, that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition; provided further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. Nothing herein shall be construed to extend or otherwise affect the provisions of chapter 440, pertaining to *workers' workmen's* compensation. All laws, including local or special laws, in conflict herewith are repealed.

Section 63. Subsection (9) of section 215.22, Florida Statutes, is amended to read:

215.22 Certain moneys and certain trust funds enumerated.—The following described moneys and trust funds, by whatever name designated, shall be those from which the deductions authorized by s. 215.20 shall be made:

(9) All income of a revenue nature deposited in the *Workers' Workmen's* Compensation Administration Trust Fund created in s. 440.50(1)(a).

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in said s. 215.24 said money or trust fund should be exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect where, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

Section 64. Section 231.49, Florida Statutes, is amended to read:

231.49 Provisions relating to Florida *Workers' Workmen's* Compensation Law.—Nothing contained in this chapter shall supersede any of the provisions of the Florida *Workers' Workmen's* Compensation Law; provided, however, that where amounts payable under the provisions of the school code, for injuries, accidents, or other disabilities which would entitle an employee to compensation under the provisions of said Florida *Workers' Workmen's* Compensation Law, exceed the amounts payable under the said compensation law, payments shall be made, as provided in the school code, for the difference between the amount paid under Florida *Workers' Workmen's* Compensation Law and the amount due under the provision of the school code.

Section 65. Subsection (11) of section 238.06, Florida Statutes, is amended to read:

238.06 Membership application, creditable service and time for making contributions.—

(11) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive *workers' workmen's* compensation payments for an injury or illness occurring during his employment while a member of any state retirement system shall be subject to the following provisions:

(a) If the member receives no salary payments for the period of time he receives *workers' workmen's* compensation payments, upon his return to active employment he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. No employee or employer contributions shall be required in order for the member to receive retirement credit for such period. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments.

(b) If the member receives partial salary for the period of time he receives *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his partial salary each pay period, and, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments.

(c) If the member is retained in full pay status in lieu of receiving *workers' workmen's* compensation payments, the re-

quired employee contributions shall be deducted from his salary each pay period, and he shall receive retirement credit for such period in the same manner he would have received credit had he not been injured or incapacitated.

Section 66. Subsection (3) of section 250.34, Florida Statutes, is amended to read:

250.34 Injury or death in active service.—

(3) After the expiration of 1 year from the date of injury or disability, such individual shall be provided hospitalization, medical services and supplies, and compensation for wages and compensation for disability based on the average weekly wages of such injured individual on pay status in the active service of the state or in his civilian occupation or employment, whichever is greater, in amounts provided under chapter 440 [F. S. 1973], as if such individual were covered under the Florida *Workers' Workmen's* Compensation Law, except that payments made during the first year after such injury shall not be duplicated after the expiration of that year.

Section 67. Section 284.30, Florida Statutes, is amended to read:

284.30 Florida Casualty Insurance Risk Management Trust Fund; coverages to be provided.—There is hereby created a Florida Casualty Insurance Risk Management Trust Fund to provide insurance, as authorized by s. 284.33, for *workers' workmen's* compensation, general liability, and fleet automotive liability insurance coverages.

Section 68. Section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees and agents and other authorized persons, and shall provide separate accounts for *workers' workmen's* compensation, general liability, and fleet automotive liability insurance coverages. All departments of the state shall be covered by the fund unless specifically excluded by the Department of Insurance.

Section 69. Section 284.36, Florida Statutes, is amended to read:

284.36 Appropriation deposits; premium payment.—During the period beginning July 1, 1972, and ending June 30, 1973, the Department of Administration, at the request of the Treasurer, may transfer any funds appropriated in the General Appropriation Act or other acts of the Legislature for the purpose of providing *workers' workmen's* compensation, general liability, and fleet automotive liability coverage to the Florida Casualty Insurance Risk Management Trust Fund. Future premiums as calculated on all coverages shall be billed and charged to each state agency according to coverages obtained by the fund for their benefit, and such obligations shall be paid promptly by each agency from its operating budget upon presentation of a bill therefor. After the first year of operation, premiums to be charged to all departments of the state are to be computed on a retrospective rating arrangement based upon actual losses accruing to the fund, taking into account reasonable expectations, the maintenance and stability of the fund, and the cost of insurance.

Section 70. Subsection (5) of section 321.19, Florida Statutes, is amended to read:

321.19 Computing length of service; definitions; examining committee.—

(5) A member of the retirement system created by this chapter who has been eligible or becomes eligible to receive *workers' workmen's* compensation payments for an injury or illness occurring during his employment while a member of any state retirement system shall be subject to the following provisions:

(a) If the member receives no salary payments for the period of time he receives *workers' workmen's* compensation payments, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. No employee or employer contributions shall be required in order for the member to receive retirement credit for such period. Such credit shall be

based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(b) If the member receives partial salary for the period of time he receives *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his partial salary each pay period, and, upon his return to active employment, he shall receive full retirement credit for the period for which *workers' workmen's* compensation payments were received. Such credit shall be based on the member's rate of monthly compensation immediately prior to his receiving *workers' workmen's* compensation payments; or

(c) If the member is retained in full-pay status in lieu of receiving *workers' workmen's* compensation payments, the required employee contributions shall be deducted from his salary each pay period, and he shall receive retirement credit for such period in the same manner he would have received credit had he not been injured or incapacitated.

Section 71. Subsection (2) of section 321.20, Florida Statutes, is amended to read:

321.20 Retirement pay; basis.—

(2) Any member who has been retired because of total disability shall receive, in addition to the award made to him under the Florida *workers' workmen's* compensation law, an annual pension payable monthly, of 45 percent of the annual salary of said member at the time of his disability or 45 percent of \$6,000 whichever is greater, and he shall continue to receive the said pension payment so long as such total disability exists. Any member who has been retired because of partial disability shall receive in addition to the award made to him under the Florida *Workers' Workmen's* Compensation Law, an annual pension, payable monthly, of 35 percent of the annual salary of said member at the time of his disability, and he shall continue to receive the said pension payment so long as such partial disability exists. The department may require such member to submit to a medical examination from time to time by a doctor selected by the department, and if the examination discloses that such member is no longer disabled, such member may be ordered by the department to return to active duty with the same rank and salary that he had at the time of disability. Any such retired member who shall fail to return to duty following such order shall forfeit all rights and claims under this law.

Section 73. Subsection (4) of section 321.221, Florida Statutes, is amended to read:

321.221 Pensions, wives of deceased patrolmen.—

(4) In determining the amount of pension to be received under this section, the benefits received in the form of *workers' workmen's* compensation and/or social security shall be considered and the total monthly compensation shall not exceed one-half of the salary received by the deceased patrolman at the time of his death. Provided, however, that should such total compensation exceed one-half of the monthly salary drawn by the deceased patrolman at the time of his death, the pension herein provided for shall be reduced by the amount of such excess.

Section 77. Paragraph (d) of subsection (1) and subsection (2) of section 409.255, Florida Statutes, are amended to read:

409.255 Aid to families with dependent children; father unemployed.—

(1) When a father who provides the major support of the child from his earnings is unemployed, the family shall be eligible for assistance provided the parent:

(d) Is not receiving *workers' workmen's* compensation payments in an amount which meets the needs of the family.

(2) The department, the *Department of Labor and Employment Security Division of Labor and Employment Opportunities* of the Department of Commerce, and the Department of Education are authorized to provide administrative agreements and safeguards to guarantee the integrity of this program and to assure the best use of available community services to return these families to a condition of self-support.

Section 78. Subsection (3) of section 443.06, Florida Statutes, 1978 Supplement, is amended to read:

443.06 Disqualification for benefits.—An individual shall be disqualified for benefits.

(3) For any week with respect to which he is receiving or has received remuneration in the form of:

(a) Wages in lieu of notice:

(b)1. Compensation for temporary partial disability, temporary total disability or permanent total disability under the *workers' workmen's* compensation law of any state or under a similar law of the United States.

2. Provided, that if the remuneration referred to in paragraphs (a) and (b) of this subsection is less than the benefits which would otherwise be due under this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

Section 79. Subsection (7) of section 443.12, Florida Statutes, 1978 Supplement, is amended to read:

443.12 Division and board; powers, duties, etc.; rules and regulations; personnel; advisory councils; records and reports; cooperation, etc.—

(7) **RECORDS AND REPORTS.—**Each employing unit shall keep true and accurate work records, containing such information as the division may prescribe. Such records shall be open to inspection and be subject to being copied by the division at any reasonable time and as often as may be necessary. The division or an appeals referee may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, deemed necessary for the effective administration of this chapter. Information thus obtained, or obtained from any individual pursuant to the administration of this chapter, shall, except to the extent necessary for the proper presentation of a claim or upon written authorization of the claimant who has a *workers' workmen's* compensation claim pending, be held confidential and shall not be published or be open to public inspection (other than to public employees in the performance of their public duties), in any manner revealing the individual's or employing unit's identity, but any claimant (or his legal representative) at a hearing before an appeals referee or the board shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the board or any employee of the division who violates any provision of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Provided, however, the division may furnish to any employer copies of any report previously submitted by such employer, upon the request of such employer, and the division is authorized to charge therefor such reasonable fee as the division may by regulations prescribe not to exceed the actual reasonable cost of the preparation of such copies. Fees received by the division for copies as herein provided shall be deposited to the credit of the Employment Security Administration Trust Fund.

Section 80. Paragraph (d) of subsection (4) of section 443.15, Florida Statutes, 1978 Supplement, is amended to read:

443.15 Collection of contributions.—

(4) **MISCELLANEOUS PROVISIONS FOR ENFORCEMENT OF COLLECTION OF CONTRIBUTIONS.—**

(d) Civil actions brought under this chapter to collect contributions and interest thereon, or any proceeding had herein for the collection of contributions from an employer shall be heard by the court having jurisdiction thereof at the earliest possible date, and shall be entitled to preference upon the calendar of said court over all other civil actions except petitions for judicial review of claims for benefits arising under this chapter and cases arising under the *Workers' Workmen's* Compensation Law of this state.

Section 81. Subsection (5) of section 520.73, Florida Statutes, is amended to read:

520.73 Contract form.—

(5) The home improvement contract shall state whether *workers' workmen's* compensation and public liability insurance are carried by the home improvement contractor and if they are applicable to the work to be performed under the contract or if the home improvement contractor is qualified as a self-insurer.

Section 82. Subsection (7) of section 520.90, Florida Statutes, is amended to read:

520.90 Prohibited acts.—The following acts are prohibited:

(7) Willful or deliberate disregard and violation of the building laws of this state or of any political subdivision or of the safety, labor, or *workers' workmen's* compensation insurance laws of this state.

Section 83. Subsection (6) of section 553.19, Florida Statutes, 1978 Supplement, is amended to read:

553.19 Adoption of electrical standards.—For the purpose of establishing minimum electrical standards in this state, the following standards are adopted:

(6) The minimum standards for grounding of portable electric equipment, chapter 8C-27 as recommended by the Industrial Standards Section, *Division Bureau of Workers' Workmen's Compensation, Division of Labor, Department of Labor and Employment Security Commerce.*

Section 84. Section 562.132, Florida Statutes, 1978 Supplement, as created by chapter 78-443, Laws of Florida, is hereby repealed.

Section 85. Subsections (1) and (3) of section 624.435, Florida Statutes, 1978 Supplement, are amended to read:

624.435 Reports of information by *workers' workmen's* compensation insurers required.—

(1) Any insurer authorized to write a policy of *workers' workmen's* compensation insurance or self-insurer shall transmit the following information to the department each year with the annual report of such insurer, and such information shall be reported on a net basis with respect to reinsurance for nationwide experience and on a direct basis with respect to reinsurance for Florida experience broken down by its nationwide and Florida insurance writings:

- (a) ~~Direct~~ Premiums written;
- (b) ~~Direct~~ Premiums earned;
- (c) Dividends paid or credited to policyholders;
- (d) Losses paid;
- (e) Allocated loss adjustment expenses;
- (f) The ratio of allocated loss adjustment expenses to losses paid;
- (g) Unallocated loss adjustment expenses;
- (h) The ratio of unallocated loss adjustment expenses to losses paid;
- (i) The total of losses paid and unallocated and allocated loss adjustment expenses;
- (j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;
- (k) The number of claims outstanding as of December 31 of each year;
- (l) The total amount of losses unpaid as of December 31 of each year;
- (m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year; and
- (n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year.

(3)(a) The first report of this information shall include the information for the year ending December 31, 1978, and shall be filed no later than August 1, 1979. Reports for subsequent years shall be due by April 1 of the following year. All reports shall be on a calendar accident year basis and such that each calendar accident year shall be reported at 8 stages of development, last 6 months for the year ending December 31, 1978. Such report shall be filed no later than March 1, 1979. Beginning with the report for the period ending December 31,

1988, all future reports shall have all information required by subsection (1) broken down by year for the current and 2 preceding years.

(b) Within 30 days after March 1, 1980, the Department of Insurance shall commence a review of the rates of all *workers' workmen's* compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within 60 days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department may order that a new rate schedule be thereafter filed by the filer and may further specify the manner in which noncompliance shall be corrected.

Section 86. Subsection (1) of section 624.602, Florida Statutes, is amended to read:

624.602 "Life insurance," "life insurer" defined.—

(1) "Life insurance" is insurance of human lives. The transaction of life insurance includes also the granting of annuity contracts, the granting of endowment benefits, additional benefits in event of death or dismemberment by accident or accidental means, additional benefits in event of the insured's disability, and optional modes of settlement of proceeds of life insurance. Life insurance does not include *workers' workmen's* compensation coverages.

Section 87. Section 624.603, Florida Statutes, is amended to read:

624.603 "Disability insurance" defined.—"Disability insurance," also known as "health insurance," is insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof, or against disablement or expense resulting from sickness, and every insurance appertaining thereto. Disability insurance does not include *workers' workmen's* compensation coverages.

Section 88. Paragraph (c) of subsection (1) of section 624.605, Florida Statutes, is amended to read:

624.605 "Casualty insurance" defined.—

(1) "Casualty insurance" includes:

(c) *Workers' Workmen's* compensation and employer's liability.—Insurance of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement, or injury of employees.

Section 89. Subsection (7) of section 624.609, Florida Statutes, is amended to read:

624.609 Limit of risk.—

(7) This section shall not apply to life insurance, disability insurance, annuity contracts, title insurance, insurance of wet marine and transportation insurance risks, *workers' workmen's* compensation insurance, employers' liability coverages, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not readily ascertainable on issuance of the policy.

Section 90. Subsections (3) and (4) of section 625.091, Florida Statutes, are amended to read:

625.091 Loss reserves, liability insurance and *workers' workmen's* compensation.—Where called for by the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable, shall be computed as follows:

(3) For all *workers' workmen's* compensation claims under policies written more than 3 years prior to the date as of which the statement is made, the reserve shall be the present value at 4 percent interest of the determined and the estimated future payments.

(4) For all *workers' workmen's* compensation claims under policies written in the 3 years immediately preceding the date as of which the statement is made, such reserve shall be 65 percent of the earned compensation premiums of each of such 3 years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years. But in any event in the case of the first year

of any such 3-year period, such reserve shall be not less than the present value at 4 percent interest of the determined and the estimated unpaid compensation claims under policies written during such year.

Section 91. Paragraph (k) of subsection (3) of section 626-221, Florida Statutes, is amended to read:

626.221 Examination required; exemptions.—

(3) Except, that no such examination shall be necessary in the following cases:

(k) A person who has been licensed by the department as a company employee adjuster for automobile physical damage, fire, and allied lines including marine, casualty, ~~workers' workmen's~~ compensation, boiler and machinery or any combination thereof, may be licensed as a company employee adjuster without additional written examination, if his application for licenses is filed with the department within 24 months next following date of cancellation or expiration of the prior license.

Section 92. Paragraph (d) of subsection (7) of section 626-241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(7) Examinations given applicants for license as a company employee adjuster shall cover adjusting in all lines of insurance, other than life, annuity, and disability; or, in accordance with the application for the license, the examination may be limited to adjusting in:

(d) ~~Workers' Workmen's~~ compensation,

Section 93. Paragraph (a) of subsection (4) of section 626-741, Florida Statutes, is amended to read:

626.741 Nonresident agents; licensing and restrictions.—

(4)(a) All insurance policies as defined in s. 627.402, written under the nonresident agent's license, including those written or issued pursuant to the Surplus Lines Law, part VI, on risks or property located in this state must be countersigned by a local agent resident of this state; and it shall be the duty and responsibility of the nonresident agent, and, if called upon to do so by the countersigning agent, of the insurer likewise, to assure that such resident local agent receives the same commission as allowed by the state of residence of the nonresident agent, but in no event shall the resident local agent receive, accept, or retain less than 50 percent of the usual Florida local agent's commission, or 50 percent of the nonresident agent's commission, whichever is less, on policies of insurance covering property as defined in s. 624.604 and insurance covering in whole or in part real property and tangible personal property, including property floater policies. On all other policies of insurance, including insurance covering motor vehicles, plate glass, burglary, robbery, theft, larceny, boiler and machinery, ~~workers' workmen's~~ compensation, fidelity and surety, bodily injury liability, and property damage liability, in no event shall he receive, accept, or retain less than 25 percent of the usual Florida local agent's commission or 25 percent of the nonresident agent's commission, whichever is less.

Section 94. Paragraph (d) of subsection (1) of section 626.869, Florida Statutes, is amended to read:

626.869 License, permit classes; company employee adjusters, claims investigators.—

(1) An applicant for license as a company employee adjuster or claims investigator licensed to represent such an adjuster may qualify as to, and his license or permit when issued may be limited to cover adjusting in, any one of the following classes of insurance or combinations thereof:

(d) ~~Workers' Workmen's~~ compensation;

Section 95. Paragraph (d) of subsection (1) of section 626.916, Florida Statutes, is amended to read:

626.916 Eligibility for export.—

(1) No insurance coverage shall be eligible for export unless it meets all of the following conditions:

(d) Except as to extended coverage in connection with fire insurance policies and except as to windstorm insurance,

the policy or contract under which the insurance is exported shall not provide for deductible amounts, in determining the existence or extent of the insurer's liability, other than those available under similar policies or contracts in actual and current use by one or more authorized insurers. This paragraph shall not apply with respect to ~~workers' workmen's~~ compensation self-insurance qualified as such under chapter 440.

Section 96. Paragraph (c) of subsection (2) of section 627.021, Florida Statutes, is amended to read:

627.021 Scope of part I.—

(2) This chapter does not apply to:

(c) Insurance against loss of or damage to aircraft, their hulls, accessories or equipment, or against liability, other than ~~workers' workmen's~~ compensation and employer's liability, arising out of the ownership, maintenance or use of aircraft.

Section 97. Subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance, other than ~~workers' workmen's~~ compensation, employer's liability insurance and motor vehicle insurance:

(a) No rate shall be held to be excessive unless:

1. Such rate is unreasonably high for the insurance provided, and

2. A reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable.

(b) No rate shall be held to be inadequate unless:

1. The rate is unreasonably low for the insurance provided, and

2. The continued use of the rate endangers the solvency of the insurer using the same, or unless

3. The rate is unreasonably low for the insurance provided, and the use of the rate by the insurer using the same has, or if continued will have, the effect of destroying competition or of creating a monopoly.

(c) A rate shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums, when such replenishment is attributable to investment losses.

(d) This subsection shall not apply to motor vehicle insurance as defined in s. 627.063.

Section 98. Subsection (4) is added to section 627.072, Florida Statutes, to read:

627.072 Making and use of rates.—

(4)(a) In the case of workers' compensation and employer's liability insurance, the Department of Insurance shall consider utilizing the following methodology in rate determinations. Premiums, expenses, and expected claim costs would be discounted to a common point of time (such as the initial point of a policy year) in the determination of rates. The cash flow pattern of premiums, expenses, and claim costs would be determined initially by using data from eight to ten of the largest insurers writing workers' compensation insurance in the state. Such insurers may be selected for their statistical ability to report the data on an accident year basis and in accordance with paragraph (b)1., 2., and 3., for at least 2 and one-half years. Such a cash flow pattern would be modified when necessary in accordance with the data and whenever a radical change in the payout pattern is expected in the policy year under consideration.

(b) If the methodology set forth in paragraph (a) is utilized, to facilitate the determination of such a cash flow pattern methodology:

1. Each insurer shall include in its statistical reporting to the rating bureau and the department the accident year by calendar quarter data for paid claim costs; and

2. Each insurer shall submit financial reports to the rating bureau and the department which shall include total incurred claim amounts and paid claim amounts by policy year and by injury types as of December 31 of each calendar year; and

3. Each insurer shall submit to the rating bureau and the department paid premium data on an individual risk basis where risks are to be subdivided by premium size as follows:

| Number of Risks in Premium Range [to be filled in by carrier] | Standard Premium Size |
|--|--------------------------|
| | \$ 300— 999 |
| | 1,000— 4,999 |
| | 5,000—49,999 |
| | 50,000—99,999 |
| | 100,000+ |

Total:

4. Each insurer which does not have the capability of reporting in accordance with such paragraphs 1., 2., and 3. shall be required to commence such reporting procedures as of January 1, 1980.

(c) The Insurance Commissioner is directed to consider using the methodology specified in paragraph (a) prior to March 31, 1980, and in the event he decides not to use this methodology, he shall report such decision and his reasons therefor to the committees of substance in the area of insurance in each house of the Legislature by March 31, 1980.

Section 99. Subsection (1) of section 627.091, Florida Statutes, 1978 Supplement, is amended, and subsection (6) is added to said section, to read:

627.091 Rate filings; ~~workers' workmen's~~ compensation and employer's liability insurances.—

(1) As to ~~workers' workmen's~~ compensation and employer's liability insurances, every insurer shall file with the department every manual of classifications, rules, and rates, every rating plan, and every modification of any of the foregoing which it proposes to use. Every insurer is authorized to include deductible provisions in its manual of classifications, rules, and rates. Such deductibles shall in all cases be in a form and manner which is consistent with the underlying purpose of chapter 440.

(6) Whenever the committee of a recognized rating organization with responsibility for ~~workers' workmen's~~ compensation and employer's liability insurance rates in Florida meets to discuss the necessity for rate increases or decreases, the determination of rates, the rates to be requested, and any other matters pertaining to such rates, such meetings shall be held in Florida and shall be subject to s. 286.011, the Florida Government in the Sunshine Law. The committee of such a rating organization shall provide 6 weeks' notice to the department. The department shall provide at least 3 weeks' notice to the public of such meetings.

Section 100. Section 627.092, Florida Statutes, 1978 Supplement, is amended to read:

627.092 ~~Workers' Workmen's~~ Compensation Administrator.—There is created within the Division of Insurance Company Regulation of the Department of Insurance the position of ~~Workers' Workmen's~~ Compensation Administrator to monitor carrier practices in the field of ~~workers' workmen's~~ compensation.

Section 101. Section 627.093, Florida Statutes, is created to read:

627.093 Application of Florida "Government in the Sunshine Law" to ~~workers' workmen's~~ compensation and employer's liability insurance.—Section 286.011 shall be applicable to every rate filing, approval or disapproval of filing, rating deviation from filing, or appeal from any of these regarding ~~workers' workmen's~~ compensation and employer's liability insurance.

Section 102. Section 627.096, Florida Statutes, is created to read:

627.096 ~~Workers' Workmen's~~ Compensation Rating Bureau.—

(1) There is created within the Department of Insurance a ~~Workers' Compensation Rating Bureau~~ which shall make an investigation and study of all insurance companies authorized to issue ~~workers' workmen's~~ compensation and employer's liability coverage in this state. Such bureau shall study the data, statistics, schedules, or other information as it may deem necessary to assist and advise the department in its review of filings made by or on behalf of ~~workers' workmen's~~ compensation and employer's liability insurers. The department shall have the authority to promulgate rules requiring all ~~workers' workmen's~~ compensation and employer's liability insurers to submit to the rating bureau any data, statistics, schedules, and other information deemed necessary to the rating bureau's study and advisement.

(2) The Department of General Services' acquisition of data processing software, hardware, and services necessary to carry out the provisions of this act for the Treasurer's Management Information Center of the Department of Insurance shall be exempt from the provisions of chapter 287, part 1.

Section 103. Subsections (1), (2), and (3) of section 627-101, Florida Statutes, 1978 Supplement, are amended to read:

627.101 When filing becomes effective; ~~workers' workmen's~~ compensation and employer's liability insurances.—

(1) The department shall review filings as to ~~workers' workmen's~~ compensation and employer's liability insurances as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this part. If the department determines that part of a rate filing does not meet the applicable requirements of this part, it may reject so much of the filing as does not meet these requirements, and approve the remainder of the filing.

(2) Within 15 days after the date of the filing, together with any additional information, if any, in support of the filing which has been requested by the department under s. 627.091(2), has been received by the department, the department shall place the filing and its supporting information on file in its office for public inspection, and give notice thereof to the insurer or rating organization that made the filing. ~~Prior to being so placed on file for public inspection the filing shall be deemed a privileged communication not open to public inspection; but this provision shall not be deemed to prohibit any insurer or rating organization from discussing, or require any such insurer or rating organization to discuss, with any person or organization any filing which it proposes to make or has made with the department.~~

(3) A filing which the department has placed on file for public inspection as provided in subsection (2) shall so remain on file for 15 days (counting such filing date as the first day of such public inspection period), and shall not be approved, disapproved, or become effective during such 15-day period except after a public hearing. ~~After the 15-day public inspection period, the department shall specifically approve the filing before it becomes effective if not theretofore approved or disapproved after a public hearing thereon, or affirmatively approved or disapproved by the department on the 16th day after the filing was so placed on file for public inspection, the filing shall become effective as at 12:01 a.m. on such 16th day, unless within such 15-day period the department has concluded it to be in the public interest to hold a public hearing to determine whether the filing meets the requirements of this chapter, and given notice of such hearing to the insurer or rating organization that made the filing, and in which case the effectiveness of the filing shall be subject to the further order of the department made as provided in s. 627.111. If after the 15-day public inspection period the department specifically disapproves the filing, the provisions of subsection (5) shall apply.~~

Section 104. Section 627.141, Florida Statutes, 1978 Supplement, is amended to read:

627.141 Subsequent disapproval of filing; ~~workers' workmen's~~ compensation and employer's liability insurances.— If at any time after a filing has been approved by it or has otherwise become effective the department finds that the filing no longer meets the requirements of this chapter, it shall issue an order specifying in what respects it finds that such filing fails to meet such requirements and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. The order shall not affect any insurance contract or policy made or issued prior to the expiration of the period set forth in the order.

Section 105. Section 627.151, Florida Statutes, is amended to read:

627.151 Basis of approval or disapproval of *workers' workmen's* compensation or employer's liability insurances filing; scope of disapproval power.—

(1) In determining at any time whether to approve or disapprove a filing as to *workers' workmen's* compensation or employer's liability insurances, or to permit the filing otherwise to become effective, the department shall give consideration only to the applicable standards and factors referred to in ss. 627.062 and 627.072.

(2) As to *workers' workmen's* compensation and employer's liability insurances, no manual classifications, rule, rating plan, rating system, plan of operation, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, shall be disapproved if the rates thereby produced meet the applicable requirements of this part.

Section 106. Section 627.191, Florida Statutes, is amended to read:

627.191 Adherence to filings; *workers' workmen's* compensation and employer's liability insurances.—No insurer or employee thereof, and no agent shall make or issue a contract or policy of *workers' workmen's* compensation or employer's liability insurance except in accordance with the filings which are in effect for such insurer, as provided in the applicable provisions of this part, or in accordance with s. 627.171 (excess rates) of this code.

Section 107. Subsection (1) of section 627.211, Florida Statutes, 1978 Supplement, is amended to read:

627.211 Deviations; *workers' workmen's* compensation and employer's liability insurances.—

(1) Every member or subscriber to a rating organization shall, as to *workers' workmen's* compensation or employer's liability insurance, adhere to the filings made on its behalf by such organization; except that any such insurer may make written application to the department for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, for a class of insurance which is found by the department to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of *workers' workmen's* compensation or employer's liability insurance:

(a) Comprised of a group of manual classifications which is treated as a separate unit for ratemaking purposes, or

(b) For which separate expense provisions are included in the filings of the rating organization.

Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to the rating organization.

Section 108. Section 627.215, Florida Statutes, is created to read:

627.215 *Excessive profits for workers' compensation and employer's liability insurance prohibited.*—

(1) *Each insurer group shall file with the department prior to July 1 of each year, on a form prescribed by the department, the following data for workers' compensation and employer's liability insurance:*

(a) *Calendar year earned premium.*

(b) *Accident year incurred losses and loss adjustment expenses.*

(c) *The administrative and selling expenses incurred in Florida or allocated to Florida for the calendar year.*

(d) *Policyholder dividends applicable to the calendar year.*

The data filed for the group shall be a consolidation of the data of the individual insurers of the group.

(2)(a) *Excessive profit has been realized if underwriting gain plus investment income generated by loss reserves is greater than the anticipated underwriting profit plus 5 percent of earned premiums for the 3 most recent calendar years.*

(b) *As used in this section with respect to any 3-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business. Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.*

(3) *Each insurer group shall also file a schedule of Florida loss and loss adjustment experience for each of the 3 most recent accident years. The incurred losses and loss adjustment expenses shall be valued as of December 31 of the accident year, developed to an ultimate basis, and at two 12-month intervals thereafter, each developed to an ultimate basis, so that a total of three evaluations will be provided for each accident year. The first year to be so reported shall be accident year 1979, so that the reporting of 3 accident years will not take place until accident years 1980 and 1981 have become available. For reporting purposes unrelated to determining excessive profits, the loss and loss-adjustment experience of each accident year shall continue to be reported until each accident year has been reported at eight stages of development.*

(4) *Each insurer group's underwriting gain or loss for each calendar/accident year shall be computed as follows: The sum of the accident year incurred losses and loss adjustment expenses as of December 31 of the year, developed to an ultimate basis, plus the administrative and selling expenses incurred in the calendar year, plus policyholder dividends applicable to calendar year, shall be subtracted from the calendar-year earned premium to determine the underwriting gain or loss.*

(5) *For the 3 most recent calendar/accident years, the underwriting gain or loss shall be compared to the anticipated underwriting profit.*

(6) *If the insurer group has realized an excessive profit, the department may order a return of the excessive amounts to policyholders.*

(7) *In determining what action should be taken if excessive profits are realized, the department shall consider the following, as they relate to Florida workers' compensation and employer's liability insurance:*

(a) *The underwriting profit or loss of the insurer group in prior years.*

(b) *The financial strength and stability of the insurer group.*

(c) *The loss development patterns of the insurer group.*

(8) *The department may excuse an insurer from complying with these reporting requirements if the volume of business written by the insurer would not justify the expense of the reporting requirement.*

(9) *Any excess profit of an insurance company offering workers' compensation or employer's liability insurance shall be returned to policyholders in the form of a cash refund rather than a credit toward the future purchase of insurance.*

Section 109. Subsection (1) of section 627.281, Florida Statutes, 1978 Supplement, is amended to read:

627.281 Appeal from rating organization; *workers' workmen's* compensation and employer's liability insurance filings.—

(1) Any member or subscriber to a rating organization may appeal to the department from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the *workers' workmen's* compensation or employer's liability insurance filings of such rating organization, and the department shall issue an order approving the decision of such rating organization or directing it to give further consideration to such proposal. If such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the department may, in the event it finds that such action or decision was unreasonable, issue an order directing the rating organization to make an

addition to its filings, on behalf of its members and subscribers, in a manner consistent with its findings, within a reasonable time after the issuance of such order.

Section 110. Section 627.291, Florida Statutes, 1978 Supplement, is amended to read:

627.291 Information to be furnished insureds; appeal by insureds; ~~workers' workmen's~~ compensation and employer's liability insurances.—

(1) As to ~~workers' workmen's~~ compensation and employer's liability insurances, every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) As to ~~workers' workmen's~~ compensation and employer's liability insurances, every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or rejects such request within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or insurer on such request may, within 30 days after written notice of such action, appeal to the department, which may affirm or reverse such action.

Section 111. Subsection (4) of section 627.311, Florida Statutes, 1978 Supplement, is amended to read:

627.311 Joint underwriters and joint reinsurers.—

(4)(a) The department may, after consultation with insurers licensed to write ~~workers' workmen's~~ compensation and employers' liability insurance in this state, approve a joint underwriting plan for the purpose of equitable apportionment or sharing of ~~workers' workmen's~~ compensation and employers' liability insurance among insurers. The plan shall operate subject to the supervision of a board of governors, to be named by the Insurance Commissioner, the members of which shall serve for terms of 2 years, consisting of three insurers participating in the plan, three employers, and one producing agent for the plan. The minutes, audits, and procedures of the board of governors shall be subject to chapter 119.

The plan of operation of the joint underwriting plan shall be prepared by the board of governors and shall be subject to approval by the Insurance Commissioner. In addition the Insurance Commissioner shall review the plan of operation on an ongoing basis. The plan shall be subject to revision at the request of the Insurance Commissioner at any time. The board of governors shall designate one or more servicing carriers for the plan from the ranks of those insurers participating in the plan. Any such designation shall be subject to the approval of the Insurance Commissioner, and any such designation may be rescinded for cause by the board subject to the approval of the Insurance Commissioner or by the Insurance Commissioner if deemed appropriate in the exercise of his judgment. The plan shall take such actions as will, in the judgment of the board, encourage safety among its insureds. It shall annually report to the Department of Insurance and to the Legislature on those actions taken by it in this regard. It shall employ full-time safety consultants or engineers who will be available to advise insureds who may from time to time seek advice regarding safety procedures and to advise such insureds as may demonstrate an unreasonably high frequency of worker accidents. Each designated servicing carrier shall provide as a condition for such designation sufficient personnel to provide support for such safety management subject to coordination by the chief safety manager of the plan. In addition each designated servicing carrier shall provide personnel for claims adjustment so as to avoid undue costs due to unjust or improper claims against the plan. Such personnel shall be responsive to the requirements and policy dictates of the board of governors subject to approval by the Insurance Commissioner. In the event that no insurer is willing or able in the judgment of the Insurance Commissioner to act as a servicing carrier for the plan, then the board shall have the power to designate a manager and such staff as may in its judgment be necessary in addition to the chief safety manager and related staff to operate the plan. Designated

servicing carriers shall provide policy and claims service on behalf of all other insurers participating in the plan in order to provide workers' compensation and employer's liability insurance for applicants who are in good faith entitled to but unable to purchase workers' compensation and employer's liability insurance through the voluntary insurance market at standard rates. The plan may provide for one or more designated insurers able and willing to provide policy and claims service to act on behalf of all other insurers to provide insurance for applicants who are in good faith entitled to, but unable to, procure insurance through the voluntary insurance market at standard rates. Such [plan] shall provide that the designated insurers shall issue policies of insurance and provide policyholder and claim service on behalf of all insurers for the joint underwriting association. The plan shall provide for the equitable apportionment among insurers of losses and expenses incurred. The plan is authorized to pay a commission to producing agents not to exceed 5 percent of the total premium. If the plan is adopted, all insurers authorized to write ~~workers' workmen's~~ compensation and employer's ~~employers'~~ liability insurance in this state shall subscribe thereto and participate therein. The plan shall be operated as a nonprofit venture. The plan shall be divided into two subplans as follows: Subplan "A" shall provide coverage for insureds who have a demonstrated accident frequency problem, who have a measurably adverse loss ratio, over a period of years or who have demonstrated an attitude of noncompliance with safety requirements, and subplan "B" shall provide coverage for all other insureds of the joint underwriting plan. The methodology of applying these criteria, which shall be used to determine into which subplan an insured shall be placed, shall be determined by the Insurance Commissioner and such methodology shall be applied regardless of the number of employees or the amount of payroll of the insured. The board of governors shall establish a system of surcharges applicable to insureds covered under subplan A, subject to approval by the Insurance Commissioner. A system of surcharges applicable to insureds covered under subplan B shall not be established. Retrospective evaluation of premiums and loss and expense experience of insureds within either subplan, as well as retrospective evaluation of premiums, losses, and expense experience of each subplan, shall be performed by the board of governors according to methodology submitted by the board to, and approved by, the Insurance Commissioner. If the board of governors determines by such retrospective evaluation of a subplan that a return of a portion of premiums is in order, then such a return shall be accomplished within such subplan subject to the approval of the Insurance Commissioner.

(b) No later than 45 days prior to the expiration date of an insured's policy year, the insured shall be advised by the insurer that he may be continued in or assigned to the joint underwriting plan and advised that such assignment will require an additional cost or premium. The insured shall be advised that if he desires, his name shall be filed publicly with the Department of Insurance to enable insurance providers the opportunity to offer coverage outside the plan. If the insured agrees, his name, company name, mailing address, telephone number, and the names of his insurer and agent shall be placed on file no later than 25 days prior to the policy expiration date with the Department of Insurance. Any policy subsequently written as a result of the provisions of this paragraph shall be subject to s. 626.752.

(c) Effective July 1, 1981, self-insurers as defined in s. 440.02(7)(b)1. and 3. shall participate in the equitable apportionment among insurers of losses and loss adjustment expenses incurred by the plan with credit for investment income. Expenses shall be limited to actual expenses incurred by the plan. However, this paragraph shall not apply to governmental entities which are self-insurers under s. 440.38(6) or s. 440.57 or public utilities who are self-insurers under s. 440.38(1)(b). Self-insurers participating in the plan shall be deemed to be insurers for the purposes of this subsection. When the provisions of this paragraph become effective, two individual self-insurers participating in the plan and authorized under s. 440.38(1)(b) and two group self-insurers participating in the plan and authorized under s. 440.57 shall be added to the board of governors as named by the Insurance Commissioner.

Section 112. Paragraph (c) of subsection (3) of section 627.314, Florida Statutes, is amended to read:

627.314 Concerted action by two or more insurers.—

(3)

(c) This subsection does not apply as to ~~workers' workmen's~~ compensation and employer's liability insurances.

Section 113. Subsection (1) of section 627.601, Florida Statutes, is amended to read:

627.601 Scope of part VI.—Nothing in part VI of this chapter shall apply to or affect:

(1) Any policy of liability or *workers' workmen's* compensation insurance with or without supplementary expense coverage therein.

Section 114. Subsection (2) of section 627.622, Florida Statutes, is amended to read:

627.622 Insurance with other insurers.—(Provision of service or expense incurred basis).

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in s. 627.623 there shall be added to the caption of the foregoing provision the phrase "—Expense Incurred Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the department, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the department. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any *workers' workmen's* compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Section 115. Subsection (2) of section 627.623, Florida Statutes, is amended to read:

627.623 Same; other benefits.—

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in s. 627.622, there shall be added to the caption of the foregoing provision the phrase "—Other Benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the department, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the department. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any *workers' workmen's* compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Section 116. Subsection (2) of section 627.624, Florida Statutes, is amended to read:

627.624 Relation of earnings to insurance.—

(2) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50 or, in the case of a policy issued after age 44, for at least 5 years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the department, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of

Canada, or to any other coverage the inclusion of which may be approved by the department or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any *workers' workmen's* compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Section 117. Subsection (1) of section 627.727, Florida Statutes, 1978 Supplement, is amended to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(1) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom. However, the coverage required under this section shall not be applicable when, or to the extent that, any insured named in the policy shall reject the coverage. When a vehicle is leased for a period of 1 year or longer and the lessor of such vehicle, by the terms of the lease contract, provides liability coverage on the leased vehicle in a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage. Unless the named insured, or lessee having the privilege of rejecting uninsured motorist coverage, requests such coverage in writing, the coverage need not be provided in or supplemental to a renewal policy when the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer. The coverage provided under this section shall be excess over, but shall not duplicate the benefits available to an insured under, any *workers' workmen's* compensation law, personal injury protection benefits, disability benefits law, or any similar law; under any automobile liability or automobile medical expense coverages; or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident. Such coverage shall not inure directly or indirectly to the benefit of any *workers' workmen's* compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any *workers' workmen's* compensation or disability benefits law or any similar law.

Section 118. Subsection (4) of section 627.736, Florida Statutes, 1978 Supplement, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730—627.741 shall be primary, except that benefits received under any *workers' workmen's* compensation law or Medicaid as provided under 42 USC 1396 et seq. shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730—627.741.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730—627.741.

(b) Personal injury protection insurance benefits shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the

insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state, but within the United States of America or its territories or possessions or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a self-propelled vehicle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741, or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person, the maximum payable shall be as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

Section 119. Subsection (3) is added to section 627.7372, Florida Statutes, 1978 Supplement, to read:

627.7372 Collateral sources of indemnity.—

(3) Notwithstanding any other provision of this section, benefits received under the Workers' Compensation Act shall not be considered a collateral source.

Section 120. Paragraph (b) of subsection (1) of section 629.071, Florida Statutes, is amended to read:

629.071 Surplus funds required.—

(1) A domestic reciprocal insurer hereunder formed, if it has otherwise complied with the applicable provisions of this code, may be authorized to transact insurance if it has and thereafter maintains surplus funds as follows:

(b) To transact casualty insurance (other than workers' ~~workmen's~~ compensation), surplus funds of not less than \$200,000.

Section 121. Paragraph (a) of subsection (2) of section 631.55, Florida Statutes, is amended to read:

631.55 Creation of the association.—

(2) For the purposes of administration and assessment, the association shall be divided into four separate accounts:

(a) The workers' ~~workmen's~~ compensation insurance account;

Section 122. Paragraph (a) of subsection (1) of section 631.57, Florida Statutes, is amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a) Be obligated to the extent of the covered claims existing:

1. Prior to the adjudication of insolvency and arising within 30 days after the determination of insolvency;

2. Before the policy expiration date is less than 30 days after the determination; or

3. Before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination. but such obligation shall include only that amount of each covered claim which is in excess of \$100 and is less than \$300,000, except that the association shall pay the full amount of any covered claim arising out of a workers' ~~workmen's~~ compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

Section 123. Subsection (2) of section 631.61, Florida Statutes, is amended to read:

631.61 Nonduplication of recovery.—

(2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery first from the association of the place of residence of the insured, except that if it is a first party claim for damage to property with a permanent location, he shall seek recovery first from the association of the location of the property, and if it is a workers' ~~workmen's~~ compensation plan, he shall seek recovery first from the association of the residence of the claimant. Any recovery under this part shall be reduced by the amount of recovery from any other insurance guaranty association or its equivalent.

Section 124. Subsection (5) of section 901.25, Florida Statutes, 1978 Supplement, is amended to read:

901.25 Fresh pursuit; arrest outside jurisdiction.—

(5) The officer making an arrest on fresh pursuit shall be fully protected with respect to pension, retirement, workers' ~~workmen's~~ compensation, and other such benefits just as if he had made an arrest in his own jurisdiction.

Section 125. Subsection (5) of section 944.49, Florida Statutes, is amended to read:

944.49 Requirement of labor; compensation; amount; crediting of account of prisoner; forfeiture; civil rights; prisoner not employee or entitled to compensation insurance benefits.—

(5) Nothing in this section is intended to restore, in whole or in part, the civil rights of any prisoner. No prisoner compensated under this section shall be considered as an employee of the state or the department, nor shall such prisoner come within any other provision of the Workers' ~~Workmen's~~ Compensation Act.

Section 126. Subsection (2) and paragraph (b) of subsection (5) of section 960.13, Florida Statutes, are amended to read:

960.13 Awards.—

(2) Any award shall be granted on an "actual need" basis and shall be provided subsequent to all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' ~~workmen's~~ compensation, and automobile accident coverage.

(5) Any award made pursuant to this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury or death:

(b) From any other public or private source, including an award of workers' ~~workmen's~~ compensation pursuant to chapter 440.

Section 127. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 128. Notwithstanding the provisions of chapter 78-300, Laws of Florida, chapter 440, Florida Statutes, shall not stand repealed on July 1, 1979 as scheduled by such act, but

chapter 440, Florida Statutes, as amended, is hereby revived and readopted.

Section 129. Upon the effective date of this act, rates for workers' compensation and employer's liability insurance shall be reduced by each insurer writing such coverage by not less than 15 percent calculated as a percentage of the rates of such insurer in effect on June 30, 1979. There shall be no exceptions to the requirements of this provision, unless the Department of Insurance finds that the use of the revised rates will result in rates which are inadequate to the extent that the continued use of such rates jeopardizes the solvency of the insurer.

Section 130. No later than 15 days following the date that this act becomes law, there shall be a rate filing pursuant to the provisions of s. 627.091, Florida Statutes, which shall establish premiums and otherwise reflect the changes enacted herein, as if this act were currently in force. Any workers' compensation and employer's liability insurance policy in force on July 1, 1979, and thereafter, shall reflect by endorsement any reduction in rates for the required coverage under this act as filed by the insurer and such reduction shall be computed on a pro rata basis for the remaining term of said policy. Such endorsement may be issued at the renewal date of the policy or the termination of the policy. Any return premium shall be credited to the renewal policy or, if the policy is terminated, the return premium shall be refunded to the insured.

Section 131. This act shall apply to all claims for injury arising out of accidents occurring on or after July 1, 1979.

Section 132. This act shall take effect July 1, 1979, except that this section and section 130 shall take effect upon becoming a law.

Conference Committee Amendment 2—On page 1 strike the title in its entirety and insert: A bill to be entitled An act relating to workers' compensation; amending s. 440.01, Florida Statutes; redesignating the Workmen's Compensation Law as the Workers' Compensation Law; amending s. 440.02(2)(b), (d), (7), (8), (12), (18), Florida Statutes, 1978 Supplement, and adding subsections (21), (22) to said section; providing definitions; amending s. 440.021, Florida Statutes; exempting advisory opinions of the division from chapter 120; providing procedures for collection of penalties or interest; amending s. 440.06, Florida Statutes; conforming language; amending s. 440.10(1), Florida Statutes; requiring every employer to secure payment to a pharmacist providing services; prescribing when employees of subcontractors are deemed to be employed by the contractor; amending s. 440.11, Florida Statutes, 1978 Supplement; prescribing the maximum weekly compensation benefit; establishing maximum monthly benefits for wage-loss benefits; amending s. 440.13(1), (2), (3), Florida Statutes, 1978 Supplement; limiting payments for health care services; conforming language; providing for review of health care and health services provided by certain persons, pursuant to the workers' compensation laws; requiring persons providing such care or services to repay the amount received therefor under certain circumstances; adding subsection (8) to s. 440.14(3), Florida Statutes; providing for the determination of an employee's average monthly wage; amending s. 440.15(1)(a), (b), (d), (e), (2), (3), (4), (5), (10)(a), (11), Florida Statutes, 1978 Supplement; prescribing the compensation rate for permanent total disability and for temporary total disability; providing that no compensation for permanent total disability shall be payable under certain circumstances; providing wage-loss benefits for a permanently and totally disabled employee who reestablishes an earning capacity; requiring the division to adopt rules therefor; providing impairment benefits for certain permanent impairments; requiring that the division adopt an impairment schedule; providing wage-loss benefits for permanent impairments and establishing burden of proof requirements and termination of entitlement thereto; providing for the discounting of wages for purposes of computing wage-loss benefits; requiring the division to make a study of providing additional protection from inflation; providing that benefits for temporary partial disability shall be based on actual wage loss; providing for the determination of compensation when a subsequent injury occurs; providing that certain federal benefits to an employee's dependents shall reduce the employee's compensation benefits under certain circumstances; precluding the payment of temporary total and permanent total disability benefits to an employee receiving unemployment compensation benefits; providing that unemployment compensation benefits are primary and wage-loss benefits are secondary; amending s. 440.15(1)

(a), (d), (e), (6), Florida Statutes; conforming language; amending s. 440.16 (2)(b), (4)(b), (5), (8), Florida Statutes; providing maximum rate of compensation for death benefits; conforming language; amending s. 440.17, Florida Statutes; conforming language; amending s. 440.185(1), (2), (4), (6), (7), Florida Statutes, 1978 Supplement, and adding subsection (10) to said section; requiring the employee to give notice of injury to the division; prescribing reporting requirements for the employer; requiring the division to mail an informational brochure to the injured employee and to contact the injured employee; prescribing the time within which a carrier must file notice of a new policy; requiring the employee to report compensable wage loss to the carrier; requiring the division to verify the report upon request; requiring that the division adopt rules thereto; amending s. 440.19, Florida Statutes; requiring the division to evaluate claims and to issue advisory opinions; requiring claims for compensation, remedial attention, or for death benefits to be filed within a certain time; providing that no statute of limitation applies to the right for remedial attention relating to prosthetic devices; prescribing contents of such claims; requiring an employer or carrier to furnish certain information; amending provisions of s. 440.20, Florida Statutes, 1978 Supplement; providing time limits for payments of compensation for temporary disability or death, and for impairment benefits and wage-loss benefits; requiring a carrier to file with the division a written explanation of the reasons a claim has been controverted; providing that temporary disability or death benefits shall be paid weekly or bi-weekly except when the deputy commissioner determines otherwise; providing a punitive 10 percent penalty for late payments; requiring the deputy commissioner to raise the question of the penalty; requiring the division to assess a penalty against an employer who fails to send notice of final payment; prescribing limitations on lump sum settlements and prohibiting such settlements under certain circumstances; providing an employer with certain rights with respect to hearings relating to the discharge of the employer's liability; requiring the division to report questionable claims handling techniques to the Department of Insurance and for the department to take appropriate action; requiring the division to publish annually a promptness of payment report; requiring the division to promulgate rules providing guidelines as to questionable claims handling techniques; prohibiting carriers from recouping penalties in rate filings; creating s. 440.205, Florida Statutes; prohibiting retaliatory discharges of employees; amending s. 440.24, Florida Statutes; conforming language; amending s. 440.25 (1), (2), (3), (4), (6), Florida Statutes, 1978 Supplement; establishing procedures with respect to claims and requests for hearings; requiring notice of filed request for hearing to be personally served or sent by certified mail; requiring applications for hearings to state specific reasons therefor; requiring that a hearing be held within 90 days after a request therefor is filed; amending s. 440.26, Florida Statutes, providing when certain presumptions apply; amending ss. 440.28 and 440.29, Florida Statutes; conforming language; amending s. 440.30, Florida Statutes; requiring payment of attorney's fees by an employer or carrier in relation to the taking of a deposition under certain circumstances; amending ss. 440.31, 440.32 and 440.33, Florida Statutes; conforming language; amending s. 440.34, Florida Statutes, 1978 Supplement; requiring approval of payments to attorneys; providing an attorney's fee schedule; requiring the claimant to pay 100 percent of his attorney's fees; providing exceptions; providing that attorney's fees shall be a lien upon compensation; amending s. 440.37(2)(f), Florida Statutes, 1978 Supplement; conforming language; amending s. 440.38, Florida Statutes, 1978 Supplement; imposing conditions to be met by self-insurers; requiring the division to adopt rules creating a guaranty fund for individual self-insurers; requiring the Department of Insurance to suspend or revoke the license of an insurer under certain circumstances; requiring carriers to have a claims adjuster within the state; providing requirements relating to coinsurance provisions; amending s. 440.39(1), (3)(a), Florida Statutes; requiring notice of third party suits to be served upon the employer and carrier and notice of payment of compensation to be served upon the employee; amending ss. 440.41(2), (3), and 440.42, Florida Statutes; conforming language; amending s. 440.44, Florida Statutes; stating the legislative intent as to forceful and active administration; abolishing the Bureau of Workmen's Compensation; providing for expenditures of the division; amending s. 440.442, Florida Statutes, 1978 Supplement; conforming language; amending s. 440.45, Florida Statutes, 1978 Supplement; opening to the public meetings of the Judicial Nominating Commission as to deputy commissioners; placing deputy commissioners and the In-

dustrial Relations Commission within the Department of Labor and Employment Security; creating a Chief Commissioner and prescribing duties and salary therefor; amending s. 440.47, Florida Statutes; conforming language; amending s. 440.49, Florida Statutes, 1978 Supplement; providing for the rehabilitation of injured employees; providing for the payment of temporary disability benefits during a period of rehabilitation; limiting liability for subsequent injury through the Special Disability Trust Fund; amending ss. 440.50(1)(a), 440.51(5), (8), 440.52(2) and 440.54, Florida Statutes, conforming language; amending 440.56, Florida Statutes, 1978 Supplement; requiring carriers to provide safety consultations to policy holders upon request and providing the division's responsibility related thereto; amending s. 440.57, Florida Statutes, 1978 Supplement; requiring the division to adopt rules permitting two or more employers to qualify as a group self-insurer's fund; requiring the adoption of rules regulating such funds and the imposition of civil penalties; amending s. 440.58, Florida Statutes; amending s. 440.59, Florida Statutes, 1978 Supplement; conforming language; repealing s. 20.17(3), Florida Statutes, 1978 Supplement; abolishing the Industrial Relations Commission; providing a directive to the statute editors; amending s. 20.171, Florida Statutes, 1978 Supplement; creating a Division of Workers' Compensation within the Division of Labor; amending various provisions of the Florida Statutes; conforming language; repealing s. 562.132, Florida Statutes, 1978 Supplement, relating to classifying musicians and other entertainers as independent contractors for purposes of workers' compensation; amending various provisions of the Florida Statutes; conforming language; amending s. 624.435(1), (3), Florida Statutes, 1978 Supplement; requiring that reports include information for specified time periods and providing due dates and development stages therefor; amending various provisions of the Florida Statutes; conforming language; adding subsection (4) to s. 627.072, Florida Statutes; requiring the Department of Insurance to consider utilization of certain rate-making methodology in worker's compensation rate determinations; amending s. 627.091(1), Florida Statutes, 1978 Supplement, and adding subsection (6) to said section; requiring workers' compensation rating organizations to meet in Florida, which meetings shall be subject to s. 286.011, the Government in the Sunshine Law; amending s. 627.092, Florida Statutes, 1978 Supplement; conforming language; creating s. 627.093, Florida Statutes; applying s. 286.011 to all matters relating to rate filings; creating s. 627.096, Florida Statutes; creating within the Department of Insurance a Workers' Compensation Rating Bureau; exempting the acquisition of certain data processing equipment and services from the provisions of part I of chapter 287, Florida Statutes; amending s. 627.101(1), (2), (3), Florida Statutes, 1978 Supplement; requiring the Department of Insurance to specifically approve a filing before it becomes effective; amending ss. 627.141, 627.151, 627.191, 627.211(1), Florida Statutes, 1978 Supplement; conforming language; creating s. 627.215, Florida Statutes; prohibiting excessive profits for workers' compensation and employer's liability insurance and providing rebates therefor; amending s. 627.281(1) and s. 627.291, Florida Statutes, 1978 Supplement; conforming language; amending s. 627.311(4), Florida Statutes, 1978 Supplement; prescribing the operation of the joint underwriting plan for workers' compensation; amending various provisions of the Florida Statutes; conforming language; adding subsection (3) to s. 627.7372, Florida Statutes, 1978 Supplement; providing that workers' compensation benefits shall not be considered a collateral source of indemnity; amending various provisions of the Florida Statutes; conforming language; severability clause; reviving and readopting chapter 440, Florida Statutes, as amended; requiring a 15 percent reduction of rates for workers' compensation and employers' liability insurance upon the effective date of this act and requiring a rate filing to reflect this reduction; providing an effective date.

On motion by Senator MacKay, Rule 4.5 was waived and the report of the Conference Committee on CS for SB 188 was read the second time.

On motion by Senator MacKay the Conference Committee Report was adopted, and CS for SB 188 passed as recommended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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|---------------|----------|-----------------|----------|
| Mr. President | Barron | Chamberlin | Dunn |
| Anderson | Carlucci | Childers, W. D. | Fechtler |

| | | | |
|-----------|----------|-------------|------------|
| Frank | Jenne | Peterson | Thomas |
| Gorman | Johnston | Poole | Tobiassen |
| Grizzle | MacKay | Scarborough | Trask |
| Hair | Maxwell | Scott | Vogt |
| Henderson | McKnight | Skinner | Williamson |
| Hill | Myers | Steinberg | Winn |
| Holloway | Neal | Stuart | |

Nays—4

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|--------------|---------|---------|------|
| Childers, D. | McClain | Spicola | Ware |
|--------------|---------|---------|------|

The bill was ordered engrossed and then enrolled.

Following the passage of CS for SB 188, the President made the following statement and requested that it be published in the Journal:

"CS for SB 188, which we have just passed, is a major piece of legislation. Some may not recognize this or may feel that it was passed with too little debate compared to its importance.

"Let me assure you and everyone that this bill was thoroughly worked over and that literally thousands of hours had been spent on it before it came to final passage here today. I asked my staff to try to compile the number of hours spent on the bill.

"Considering the original bills in both houses, the committee substitutes offered for them, all the joint committees and conference committee, some 8500 hours by staff alone were spent preparing, altering, hearing and amending this bill. And this does not include the countless hours spent by members, labor and industry people, consultants and personnel from the Insurance Commissioner's office.

"The final product is a great tribute to those who worked on those committees—members and staff and those who testified and worked on both sides of the bill from the lobbying corps.

"Rather than trying to pick out any individuals who worked hardest, I would like to list all those who made major contributions to the effort:

Speaker Hyatt Brown and Representative Steve Pajcic;

House Insurance Committee Members: Representatives Samuel P. Bell, III, William R. Conway, Gene Flinn, Tom Gallagher, Elaine Gordon, Bob Hattaway, Thomas L. Hazouri, Robert C. Hector, C. Fred Jones, Franklin B. Mann, Jon Mills, H. Lee Moffitt, Terence T. O'Malley, Don C. Price, Fred Tygart, James G. Ward, T. M. Woodruff, William E. Sadowski;

House Staff: Jack Herzog, Terry Butler, Cindy Goekle, Mary Crenshaw, Dr. Lena Chang, Judy Jennings;

Joint Committee Members: Senator Kenneth H. MacKay, Senator David H. McClain, Senator Pat Thomas, Representative Terence T. O'Malley, Representative H. Lee Moffitt, Representative Tom Gallagher;

Others Attending: Senator Dick Anderson, Representative William E. Sadowski;

Senate Commerce Members: Senators W. D. Childers, Dempsey J. Barron, Warren S. Henderson, James A. Scott, John T. Ware, Sherman S. Winn, Dick Anderson, Curtis Peterson, Mattox Hair, Kenneth H. MacKay, Jr., David H. McClain;

Conferees: Senator Dempsey J. Barron, Senator Pat Thomas, Senator John T. Ware, Senator David H. McClain, Senator Kenneth H. MacKay, Representative C. Fred Jones, Representative Samuel P. Bell, III, Representative William E. Sadowski, Representative Jon Mills, Representative Tom Gallagher;

Senate Staff: Brian Deffenbaugh, Joan Kinsey, Fred Martin, Sharon Malloy, Barbara Akers, Larry Carnes, Sid McAllister, Greg Wilkerson, Louise Walker, Sheila McDevitt, Sally Munroe, Larry Strong, Theresa Blakely;

Consultants: James MacGinnitie, Dr. Claude Lilly, Dr. James Nicholas, Willard W. Peacock, Dr. David Nye; *State Personnel:* Commissioner Bill Gunter, Mark Trafton, Bill Campbell, Steve Campora, Baxter Swing, Elmer Friday; *Industry and Labor:* John Lewis, Terrell Sessums, Bud Adams, Howard Pelzner, Richard Sadow, Fred Karl, William McCue, Jr., James Brainerd, Tom Waddell, Dan Miller, William Suttle, Jon Shebel, Mary Ann

Stiles, James Richards, Jr., M.D., George Palmer, Jr., John French, Donald Gillis, Eric Tilton, C. Douglas Brown, Richard Sicking, Anthony Grippa, Vince Rio, Albert Frierson, Ed Trombetta, James Snyder, James Gorman, Dave Fountain, Hugh Ray, Joseph R. Boyd, Jack A. Heinzelman, Prentiss Mitchell, Alice Whitson, Ted Bateman, Jim Assie, Don Reed, Howard Bunn; *Others*—Eleanor Ross, U. S. Department of Labor; Robert Shaw, The Miami Herald.”

SPECIAL ORDER

Consideration of SB 54 was deferred.

SB 870 was taken up and on motion by Senator Tobiassen, the rules were waived and by two-thirds vote HB 659 was withdrawn from the Committee on Agriculture.

On motion by Senator Tobiassen—

HB 659—A bill to be entitled An act relating to milk and milk products; amending s. 502.061(5), Florida Statutes; providing that official sampling procedures and required laboratory examinations shall be in compliance with certain methods as established by department rule; providing an effective date.

—a companion measure, was substituted for SB 870 and read the second time by title. On motion by Senator Tobiassen, by two-thirds vote HB 659 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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| Mr. President | Frank | Johnston | Spicola |
| Anderson | Gorman | MacKay | Steinberg |
| Barron | Grizzle | McClain | Thomas |
| Carlucci | Hair | McKnight | Tobiassen |
| Childers, D. | Henderson | Peterson | Trask |
| Childers, W. D. | Hill | Scarborough | Vogt |
| Dunn | Holloway | Scott | Williamson |
| Fechtcl | Jenne | Skinner | Winn |

Nays—None

Votes after roll call:

Yea—Chamberlin, Neal

SB 870 was laid on the table.

SB 871 was taken up and on motion by Senator Tobiassen, the rules were waived and by two-thirds vote HB 658 was withdrawn from the Committee on Agriculture.

On motion by Senator Tobiassen—

HB 658—A bill to be entitled An act relating to frozen desserts; amending s. 503.011(4), Florida Statutes; conforming frozen desserts standards to the latest federal standards of identity; repealing s. 503.061, Florida Statutes, which prohibits sale of mellorine-type products; providing for conditional repeal; providing an effective date.

—a companion measure, was substituted for SB 871 and read the second time by title. On motion by Senator Tobiassen, by two-thirds vote HB 658 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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|-----------------|----------|-------------|------------|
| Mr. President | Frank | McClain | Steinberg |
| Anderson | Gorman | McKnight | Stuart |
| Barron | Grizzle | Myers | Thomas |
| Carlucci | Hair | Peterson | Tobiassen |
| Chamberlin | Hill | Poole | Trask |
| Childers, D. | Jenne | Scarborough | Ware |
| Childers, W. D. | Johnston | Scott | Williamson |
| Dunn | MacKay | Skinner | Winn |
| Fechtcl | Maxwell | Spicola | |

Nays—1

Vogt

Votes after roll call:

Yea—Henderson, Neal

SB 871 was laid on the table.

SB 179—A bill to be entitled An act relating to laetrile; legalizing manufacture, distribution, delivery, possession, sale, and use of laetrile in this state; providing that delivery or sale of laetrile shall be by prescription only; providing that no such manufacture, distribution, sale, or delivery shall be for the purpose of transporting laetrile across state lines; stipulating labeling requirements; amending s. 465.101(1)(e), Florida Statutes, 1978 Supplement, protecting from penalty pharmacists filling properly issued prescriptions for laetrile; adding a paragraph to s. 500.16(3), Florida Statutes, and amending s. 500.341(6), Florida Statutes, and adding a subsection; excluding laetrile from certain regulation as a “new drug”; conditioning all provisions of the act upon no hearing being conducted by the State Boards of Medical Examiners and Osteopathic Medical Examiners at which laetrile is formally declared harmful; providing duties of the Department of Health and Rehabilitative Services; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services offered the following amendment which was moved by Senator Don Childers and adopted:

Amendment 1—On page 2, lines 11 and 12, strike “by prescription only” and insert: only through a prescription issued by a physician licensed under chapter 458 or chapter 459

Senator Don Childers moved the following amendment which was adopted:

Amendment 2—On page 1 in title, line 6, strike “by prescription only” and insert: only through a prescription issued by a physician licensed under chapter 458 or chapter 459

On motion by Senator Don Childers, by two-thirds vote SB 179 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

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|-----------------|----------|-------------|------------|
| Mr. President | Fechtcl | Johnston | Spicola |
| Anderson | Frank | MacKay | Steinberg |
| Barron | Gorman | Maxwell | Thomas |
| Carlucci | Grizzle | McClain | Tobiassen |
| Chamberlin | Hair | Peterson | Trask |
| Childers, D. | Hill | Poole | Ware |
| Childers, W. D. | Holloway | Scarborough | Williamson |
| Dunn | Jenne | Scott | Winn |

Nays—5

| | | | |
|----------|---------|--------|------|
| McKnight | Skinner | Stuart | Vogt |
| Myers | | | |

Votes after roll call:

Yea—Henderson, Neal

SB 127—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; redesignating ss. 570.281, 570.282, 570.284, Florida Statutes, as ss. 570.542, 570.543, and 570.545, Florida Statutes, respectively, and redesignating s. 570.283, Florida Statutes, 1978 Supplement, as s. 570.544, Florida Statutes; creating ss. 570.548, 570.549, Florida Statutes; establishing the bureaus of the Division of Forestry of the Department of Agriculture and Consumer Services; prescribing duties of each bureau; providing for the appointment and removal and prescribing the duties and qualifications of the director of the division; providing an effective date.

—was read the second time by title. On motion by Senator Trask, by two-thirds vote SB 127 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

| | | | |
|---------------|-----------------|----------|----------|
| Mr. President | Childers, D. | Gorman | Jenne |
| Anderson | Childers, W. D. | Grizzle | Johnston |
| Barron | Dunn | Hair | MacKay |
| Carlucci | Fechtcl | Hill | Maxwell |
| Chamberlin | Frank | Holloway | McClain |

| | | | |
|----------|-------------|-----------|------------|
| McKnight | Poole | Spicola | Trask |
| Myers | Scarborough | Steinberg | Vogt |
| Neal | Scott | Thomas | Williamson |
| Peterson | Skinner | Tobiassen | Winn |

Nays—None

Vote after roll call:

Yea—Henderson

SB 267—A bill to be entitled An act relating to the Human Rights Act of 1977; amending s. 13.261(10), Florida Statutes, 1978 Supplement; providing that complaints alleging unlawful employment practices shall be filed within 180 days of the alleged violations; providing an effective date.

—was read the second time by title.

The Committee on Economic, Community and Consumer Affairs offered the following amendment which was moved by Senator Scott:

Amendment 1—On page 1, line 23, after (.) insert: Failure to file within the designated time herein shall be deemed a bar to relief under this act.

Senator Frank moved the following substitute amendment which failed:

Amendment 2—On page 1, line 10, insert: Section 1. Legislative intent; purpose.—The purpose of this act is to amend the Human Rights Act of 1977 with respect to the time period for filing complaints to conform Florida law to federal law on the same subject. It is the intent of the legislature that the 180-day filing period under the Human Rights Act be applied in the same manner and with the same exceptions as the filing period established by Title VII of the Civil Rights Act of 1964, as amended.

(Renumber subsequent sections.)

Amendment 1 was adopted.

Senator Scott moved the following amendment which was adopted:

Amendment 3—On page 1 in title, line 3, after the semicolon (;) insert: providing legislative intent;

On motion by Senator Scott, by two-thirds vote SB 267 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

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|-----------------|-----------|-------------|------------|
| Mr. President | Grizzle | McClain | Spicola |
| Anderson | Hair | Myers | Steinberg |
| Barron | Henderson | Neal | Thomas |
| Carlucci | Hill | Peterson | Tobiassen |
| Childers, D. | Holloway | Poole | Trask |
| Childers, W. D. | Jenne | Scarborough | Vogt |
| Fechtel | MacKay | Scott | Williamson |
| Gorman | Maxwell | Skinner | Winn |

Nays—6

| | | | |
|------------|----------|----------|--------|
| Chamberlin | Frank | McKnight | Stuart |
| Dunn | Johnston | | |

SB 148—A bill to be entitled An act relating to agricultural or farming operations, places, establishments, and facilities; providing that such operations, places, establishments, or facilities shall not be deemed to be a nuisance as a result of changed conditions in or around the locality of such operation, place, establishment, or facility under certain conditions; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services offered the following amendments which were moved by Senator Trask and adopted:

Amendment 1—On page 1, line 14, after the word “No” insert: commercial

Amendment 2—On page 1, line 17, strike “, either public or private,”

Amendment 3—On page 1, line 24, strike “negligent or improper” and after the word nuisance insert: injurious to health as defined in F. S. 386

On motion by Senator Trask, by two-thirds vote SB 148 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

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|-----------------|----------|-------------|------------|
| Mr. President | Grizzle | Peterson | Thomas |
| Anderson | Hair | Poole | Tobiassen |
| Barron | Hill | Scarborough | Trask |
| Chamberlin | Holloway | Scott | Vogt |
| Childers, W. D. | Johnston | Skinner | Williamson |
| Dunn | Maxwell | Spicola | Winn |
| Fechtel | McClain | Steinberg | |
| Gorman | McKnight | Stuart | |

Nays—5

| | | | |
|--------------|-------|-------|------|
| Carlucci | Frank | Jenne | Neal |
| Childers, D. | | | |

Votes after roll call:

Yea—Henderson, MacKay, Myers

Nay to Yea—Don Childers

On motion by Senator Trask, the rules were waived and the Senate immediately reconsidered the vote by which SB 127 passed this day.

Pending further consideration of SB 127, on motions by Senator Trask, the rules were waived and by two-thirds vote HB 376 was withdrawn from the Committees on Agriculture and Governmental Operations. On motion by Senator Trask—

HB 376—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; redesignating ss. 570.281, 570.282, 570.284, Florida Statutes, as ss. 570.542, 570.543, and 570.545, Florida Statutes, respectively, and redesignating s. 570.283, Florida Statutes, 1978 Supplement, as s. 570.544, Florida Statutes; creating ss. 570.548, 570.549, Florida Statutes; establishing the bureaus of the Division of Forestry of the Department of Agriculture and Consumer Services; prescribing duties of each bureau; providing for the appointment and removal and prescribing the duties and qualifications of the director of the division; providing an effective date.

—a companion measure, was substituted for SB 127 and read the second time by title. On motion by Senator Trask, by two-thirds vote HB 376 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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|-----------------|-----------|-------------|------------|
| Mr. President | Gorman | McClain | Stuart |
| Anderson | Grizzle | McKnight | Thomas |
| Barron | Hair | Neal | Tobiassen |
| Carlucci | Henderson | Peterson | Trask |
| Chamberlin | Hill | Poole | Vogt |
| Childers, D. | Holloway | Scarborough | Williamson |
| Childers, W. D. | Jenne | Scott | Winn |
| Dunn | Johnston | Skinner | |
| Fechtel | MacKay | Spicola | |
| Frank | Maxwell | Steinberg | |

Nays—None

Vote after roll call:

Yea—Myers

SB 127 was laid on the table.

SB 279—A bill to be entitled An act relating to the “Indian River” pageant; creating s. 15.043, Florida Statutes, designating

said pageant as an official state pageant; providing an effective date.

—was read the second time by title. On motion by Senator Maxwell, by two-thirds vote SB 279 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|----------|-------------|-----------|
| Mr. President | Gordon | McClain | Stuart |
| Anderson | Gorman | McKnight | Thomas |
| Barron | Grizzle | Neal | Tobiassen |
| Carlucci | Hair | Peterson | Trask |
| Chamberlin | Hill | Poole | Vogt |
| Childers, D. | Holloway | Scarborough | Ware |
| Childers, W. D. | Jenne | Scott | Winn |
| Dunn | Johnston | Skinner | |
| Fechtcl | MacKay | Spicola | |
| Frank | Maxwell | Steinberg | |

Nays—None

Vote after roll call:

Yea—Myers

CS for SB 234—A bill to be entitled An act relating to contraband; amending s. 943.41(1), Florida Statutes, and adding paragraph (e) to subsection (2) of said section; providing a short title; including personal property used or intended for use in the commission of certain crimes within the definition of "contraband articles"; adding s. 943.42(4), Florida Statutes; making unlawful the concealment or possession of contraband articles of personal property; amending s. 943.43, Florida Statutes; providing for forfeiture of contraband articles of personal property; amending s. 943.44(1)-(3), Florida Statutes; providing forfeiture proceedings for such personal property; providing for disbursement of forfeiture funds; providing an effective date.

—was taken up with pending Amendment 6 by Senator Gordon.

Senator Steinberg moved the following substitute amendment:

Amendment 7—On page 5, between lines 29 and 30, insert:

(c) If the forfeited property is money, securities or currency, no less than one-half of it shall be paid into the fine and forfeiture fund of the municipality or county whose law enforcement agency retains or is dispersed the property pursuant to this subsection.

Section 5. Section 943.45, Florida Statutes, is created to read:

943.45 Appeal of forfeiture; excessive fine, punishment or forfeiture.—

(1) Nothing herein shall prohibit the proper appeal of a forfeiture to the appropriate district court of appeal within the time and manner prescribed by the Florida Appellate Rules.

Senator Gordon moved the following amendment to Amendment 7:

Amendment 7A—On page 1, line 2, strike "no less than one half of"

Senator Scarborough presiding

On motion by Senator Gordon, further consideration of Amendments 6, 7 and 7A was deferred.

The President presiding

Senator Scott moved the following amendment which failed:

Amendment 8—On page 2, strike lines 24-27.

Senators Williamson and Dunn offered the following amendment which was moved by Senator Williamson and adopted:

Amendment 9—On page 4, strike line 4, insert a new subsection (1) and renumber the remaining subsections.

(1) The owner of property seized or the person who has the exclusive, lawful right to immediate possession of the property seized may file a motion before the court having jurisdiction of the criminal action requesting the state attorney to initiate the forfeiture proceedings pursuant to this section. The motion shall be served on the state attorney. If the state attorney has not commenced the forfeiture proceedings within 10 working days after seizure of the property, or within 5 working days after service of the owner's motion, as provided herein, then the right of the state or any political subdivision thereof, to forfeit the property shall be deemed abandoned. Within 10 days from the date of such abandonment, the property shall be returned to the owner or the person otherwise entitled to exclusive possession of the property.

Renumber subsections.

On motion by Senator Barron, further consideration of CS for SB 234 was deferred.

On motion by Senator Barron, by two-thirds vote HCR 1607 was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Barron—

HCR 1607—A concurrent resolution commending the Governor of the State of Georgia for the assistance provided by his state in locating the body of Austin D. Gay.

—was taken up out of order by unanimous consent and by two-thirds vote read the second time in full, adopted and certified to the House. The vote was:

Yeas—36

| | | | |
|-----------------|----------|-------------|------------|
| Mr. President | Gorman | McClain | Steinberg |
| Anderson | Grizzle | McKnight | Stuart |
| Barron | Hair | Myers | Thomas |
| Carlucci | Hill | Neal | Tobiassen |
| Childers, D. | Holloway | Peterson | Trask |
| Childers, W. D. | Jenne | Scarborough | Vogt |
| Dunn | Johnston | Scott | Ware |
| Fechtcl | MacKay | Skinner | Williamson |
| Frank | Maxwell | Spicola | Winn |

Nays—None

Vote after roll call:

Yea—Chamberlin

Senator MacKay moved that the rules be waived and a bill relating to the Public Counsel be admitted for introduction notwithstanding the fact that the deadline for filing bills pursuant to Rule 4.6 had passed.

The motion was referred to the Committee on Rules and Calendar.

CS for SB 47—A bill to be entitled An act relating to juries; amending ss. 40.01, 40.015(1), 40.02, 40.07, 40.23, 40.231, 40.24, 40.29-40.35, 905.01(1) and 905.37(3), Florida Statutes; prescribing qualifications for jurors; prescribing procedures for the creation of jury districts; prescribing procedures for the selection and security of jury lists; prescribing procedures for court administrator to perform certain duties; providing for certain persons to be disqualified or excused from jury service; prescribing procedures for summoning jurors; providing for jury pools; providing for payment of jurors summoned; prescribing procedures for the estimation, requisition, apportionment, and disbursement of state funds for the payment of jurors and certain witnesses; prescribing procedures for accounting for such payments; providing for the procurement of a grand jury; prescribing qualifications for grand jurors; creating ss. 40.221, 40.225, Florida Statutes; providing procedures for drawing jury venire; providing alternative method; repealing ss. 40.03, 40.04, 40.05, Florida Statutes, relating to selection of jury lists; repealing s. 40.06, Florida Statutes, relating to the transcription and preservation of jury lists; repealing s. 40.061, Florida Statutes, requiring the addresses of persons on jury lists; repealing s. 40.08, Florida Statutes,

relating to exemptions from jury duty; repealing ss. 40.09, 40.10, 40.11, 40.13, Florida Statutes, relating to jury commissioners; repealing s. 40.101, Florida Statutes, relating to means of gathering information concerning prospective jurors; repealing s. 40.20, Florida Statutes, relating to procedures to be followed if there is a deficiency of jurors; repealing s. 40.22, Florida Statutes, relating to issuance of venire; repealing s. 40.25, Florida Statutes, relating to pay of jurors in vacation; repealing s. 40.27, Florida Statutes, prescribing penalty for failure to answer summons; repealing s. 40.28, Florida Statutes, relating to penalty for failure to draw or summons jurors; repealing s. 40.36, Florida Statutes, relating to drawing of petit and grand jury venire; repealing s. 40.371, Florida Statutes, prescribing alternative selection method for drawing venire; repealing s. 40.39, Florida Statutes, relating to duties of clerk of court; repealing s. 40.40, Florida Statutes, relating to the drawing of grand jurors; repealing ss. 40.42, 40.43, Florida Statutes, which sections relate to deficiency, or excess in jury box, omissions, etc.; providing an effective date.

—was taken up with pending Amendment 4.

Amendment 4—On page 7, line 12, strike “practicing attorney, a practicing physician, or”

Senator Chamberlin moved the following amendment to Amendment 4 which failed:

Amendment 4A—On page 1, strike “a practicing physician”

Senator Spicola moved that the Senate reconsider the vote by which Amendment 4A failed and the Senate refused to reconsider.

Amendment 4 failed. The vote was:

Yeas—19

| | | | |
|---------------|---------|----------|-----------|
| Mr. President | Fechtcl | Jenne | Stuart |
| Anderson | Frank | Johnston | Tobiassen |
| Carlucci | Gordon | MacKay | Vogt |
| Childers, D. | Gorman | McKnight | Winn |
| Dunn | Grizzle | Myers | |

Nays—19

| | | | |
|------------|----------|-------------|------------|
| Barron | Maxwell | Scarborough | Thomas |
| Chamberlin | McClain | Scott | Trask |
| Hair | Neal | Skinner | Ware |
| Hill | Peterson | Spicola | Williamson |
| Holloway | Poole | Steinberg | |

On motion by Senator Hair, by two-thirds vote CS for SB 47 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

| | | | |
|-----------------|-----------|-------------|------------|
| Mr. President | Gordon | Maxwell | Spicola |
| Anderson | Gorman | McClain | Steinberg |
| Barron | Grizzle | McKnight | Stuart |
| Carlucci | Hair | Myers | Thomas |
| Chamberlin | Henderson | Neal | Tobiassen |
| Childers, D. | Hill | Peterson | Trask |
| Childers, W. D. | Holloway | Poole | Vogt |
| Dunn | Jenne | Scarborough | Ware |
| Fechtcl | Johnston | Scott | Williamson |
| Frank | MacKay | Skinner | Winn |

Nays—None

SB 709—A bill to be entitled An act relating to radiologic technologists; amending s. 468.308(1), (2), (6), Florida Statutes, 1978 Supplement; extending the time within which certain persons may apply for and within which the department is required to issue a radiologic technologist's certificate based on prior experience; including osteopathic physicians' assistants in those health personnel who shall be issued a certificate to operate x-ray equipment without examination; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services offered the following amendment which was moved by Senator Hill and adopted:

Amendment 1—On page 2, line 19, strike “October 1” and insert: July 1

On motion by Senator Hill, by two-thirds vote SB 709 as amended was read the third time by title and failed to pass. The vote was:

Yeas—12

| | | | |
|---------------|---------|----------|----------|
| Mr. President | Gordon | Hill | Myers |
| Chamberlin | Grizzle | Holloway | Peterson |
| Frank | Hair | McClain | Winn |

Nays—27

| | | | |
|-----------------|----------|-------------|------------|
| Anderson | Gorman | Poole | Thomas |
| Barron | Jenne | Scarborough | Tobiassen |
| Carlucci | Johnston | Scott | Trask |
| Childers, D. | MacKay | Skinner | Vogt |
| Childers, W. D. | Maxwell | Spicola | Ware |
| Dunn | McKnight | Steinberg | Williamson |
| Fechtcl | Neal | Stuart | |

Senator Barron moved that the Senate reconsider the vote by which SB 709 failed this day.

The motion was placed on the calendar for consideration May 1.

On motion by Senator Dunn, the rules were waived and by two-thirds vote SB 705 was withdrawn from the Committee on Governmental Operations.

CO-INTRODUCERS

Senators MacKay and Hill—SB 793; Senator McKnight—SB 1009; Senator Hill—SB 1122; Senator Ware—SB 26; Senator Poole—SB 1218; Senator Jenne—SB 505

The Journal of April 25 was corrected and approved.

The Journal of April 24 was corrected and approved as follows:

Page 215, column 1, strike line 27 and insert:

By Senators Anderson and McKnight—

SCR 1127—A concurrent resolution commending the University of Miami Women's Golf Team.

—was read the first time by title and referred to the Committee on Rules and Calendar.

Page 216, column 2, strike lines 24 through 34 and insert: SB 1147—Withdrawn prior to introduction.

The Journal of April 19 was further corrected and approved as follows:

Page 187, column 2, strike lines 33 and 34

Page 187, column 2, between lines 31 and 32 insert: (2), (6), Florida Statutes; prescribing civil penalties; prohibiting the disclosure of certain information; providing a

Page 189, column 1, line 8, before “relating” insert: and re-enacting s. 562.17, Florida Statutes,

On motion by Senator Barron, the Senate adjourned at 3:53 p.m. to convene at 8:30 a.m., April 27, for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions.