



Journal of the Senate

Number 2—Special Session C

Tuesday, November 2, 1993

CALL TO ORDER

The Senate was called to order by the President at 1:00 p.m. A quorum present—40:

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

PRAYER

The following prayer was offered by Dr. Len Turner, Pastor, East Hill Baptist Church, Tallahassee:

God of love and God of grace, we pause for a brief moment to collect our wits and calm our frayed nerves. It will probably be the last moment of stillness for many hours to come for these Senators and their staff.

Heavenly Father, I want to lift before you today each Senator and all of the staff members. Each of these individuals has great value to you and to each other. They have taken upon themselves a tremendous task for this day. I believe that each will rise to this challenge because he or she cares about this great state and cares about its work force. Each Senator brings her or his own unique understanding of what it means to work, the risks involved in working, and a definite sense of what is fair compensation when one cannot work. May you take all this myriad of colorful work experiences and weave them together into a beautiful, practical and workable garment.

I also pray for the constituents of this state that we would choose to view the front of this weaving rather than the back that reveals the knots, the mistakes and the kinks. Help us to look for what is best for the most rather than to demand a perfect document.

For all that you will do for us individually and collectively over the next several hours we will be sure to offer you our gratitude. Amen.

PLEDGE

Senator Williams led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

MOTION TO INTRODUCE RESOLUTION

On motion by Senator Brown-Waite, by the required constitutional two-thirds vote of the Senate the following resolution was admitted for introduction:

On motion by Senator Brown-Waite, by unanimous consent—

By Senator Brown-Waite—

SR 38-C—A resolution commemorating the 150th anniversary of the founding of Hernando County.

WHEREAS, on February 27, 1843, the County of Hernando, named in honor of Hernando De Soto, the Spanish explorer, was established, and

WHEREAS, the name of the county changed in 1844 from Hernando to Benton, in honor of Senator Thomas H. Benton, who had introduced a bill in the Florida Legislature to open the land for settlement, and

WHEREAS, in 1850, the residents of Benton County successfully petitioned to change the county name back to Hernando after Senator Benton reversed his position on the Missouri Compromise, and

WHEREAS, in December 1854, Bayport, one of the principal settlements and a port of entry for the county for the exporting of cotton, farm produce, and timber, was chosen and approved by the Legislature as the county seat, and

WHEREAS, within 2 years, the county voters chose a new county seat located within 5 miles of the center of the county and named it "Brooksville" in honor of Representative Preston Brooks, and

WHEREAS, on January 1, 1887, "A Bill to Divide the County of Hernando and Make Therefrom the Counties of Citrus and Pasco" was signed into law, and

WHEREAS, in the following several decades, the lumber industry flourished, the citrus boom hit central Florida, the phosphate industry stabilized, and limestone mining was established, and

WHEREAS, the depression of the 1930's and World War II had a severe effect on the availability of resources and on further development, and

WHEREAS, as the county recovered, Hernando County had a corresponding increase in population, land developments, and highway improvement projects, and

WHEREAS, by the late 1970's Hernando County was developing into the fastest growing county in the State of Florida, and

WHEREAS, today, Hernando County covers approximately 312,000 acres or 477 square miles and includes the cities of Brooksville and Weeki Wachee, and

WHEREAS, Spring Hill is the largest unincorporated area of Hernando County, with more than 60,000 residents, and

WHEREAS, in 1970, the population of Hernando County was 17,004 and is projected to reach 175,200 by the year 2000, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the 150th anniversary of the founding of Hernando County is hereby commemorated.

—was introduced out of order and read by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the resolving clause and insert:

That the 150th anniversary of the founding of Hernando County and the 150th anniversary of the founding of Wakulla County are hereby commemorated.

And the title is amended as follows:

In title, strike everything before the resolving clause and insert:

Senate Resolution No. ____

A resolution commemorating the 150th anniversary of the founding of Hernando and Wakulla counties.

WHEREAS, on February 27, 1843, the County of Hernando, named in honor of Hernando De Soto, the Spanish explorer, was established, and

WHEREAS, the name of the county changed in 1844 from Hernando to Benton, in honor of Senator Thomas H. Benton, who had introduced a bill in the Florida Legislature to open the land for settlement, and

WHEREAS, in 1850, the residents of Benton County successfully petitioned to change the county name back to Hernando after Senator Benton reversed his position on the Missouri Compromise, and

WHEREAS, in December 1854, Bayport, one of the principal settlements and a port of entry for the county for the exporting of cotton, farm produce, and timber, was chosen and approved by the Legislature as the county seat, and

WHEREAS, within 2 years, the county voters chose a new county seat located within 5 miles of the center of the county and named it "Brooksville" in honor of Representative Preston Brooks, and

WHEREAS, on January 1, 1887, "A Bill to Divide the County of Hernando and Make Therefrom the Counties of Citrus and Pasco" was signed into law, and

WHEREAS, in the following several decades, the lumber industry flourished, the citrus boom hit central Florida, the phosphate industry stabilized, and limestone mining was established, and

WHEREAS, the depression of the 1930's and World War II had a severe effect on the availability of resources and on further development, and

WHEREAS, as the county recovered, Hernando County had a corresponding increase in population, land developments, and highway improvement projects, and

WHEREAS, by the late 1970's Hernando County was developing into the fastest growing county in the State of Florida, and

WHEREAS, today, Hernando County covers approximately 312,000 acres or 477 square miles and includes the cities of Brooksville and Weeki Wachee, and

WHEREAS, Spring Hill is the largest unincorporated area of Hernando County, with more than 60,000 residents, and

WHEREAS, in 1970, the population of Hernando County was 17,004 and is projected to reach 175,200 by the year 2000, and

WHEREAS, on March 11, 1843, Wakulla County became the 23rd county of the Territory of Florida, and

WHEREAS, it was 2 years later, in 1845, that Florida joined the Union and became the 27th state, and

WHEREAS, the Wakulla County Sesquicentennial Festival will be held on December 4, 1993, in the City of Crawfordville, and

WHEREAS, on November 20, 1993, an important part of that celebration will take place, when a "Pony Express" rider will carry a message in his saddlebags from Senate President Pat Thomas to the Wakulla County Bank, and

WHEREAS, that document will be stored in the bank vault until December 4th, at which time it will be placed in a limestone time capsule on the courthouse lawn, to be opened and read 50 years hence, on Wakulla County's 200th anniversary, and

WHEREAS, Senator Thomas, along with Governor Chiles and Representative Allen Boyd, will be guests of honor at the parade and the time-capsule monument ceremony, and it is fitting that the Florida Senate take note of this historic event, NOW, THEREFORE,

On motion by Senator Brown-Waite, **SR 38-C** as amended was read the second time in full and adopted.

MOTION TO INTRODUCE RESOLUTION

On motion by Senator Silver, by the required constitutional two-thirds vote of the Senate the following resolution was admitted for introduction:

On motion by Senator Silver, by unanimous consent—

By Senators Bankhead, Beard, Boczar, Brown-Waite, Burt, Casas, Childers, Crenshaw, Crist, Dantzler, Diaz-Balart, Dudley, Dyer, Foley, Forman, Grant, Grogan, Gutman, Harden, Hargrett, Holendorf, Jenne, Jennings, Johnson, Jones, Kirkpatrick, Kiser, Kurth, McKay, Meadows, Myers, Scott, Siegel, Silver, Sullivan, Thomas, Turner, Weinstein, Wexler and Williams—

SCR 40-C—A concurrent resolution in memory of Evelyn Gort, an off-duty Metro-Dade law enforcement officer who was killed during a robbery.

WHEREAS, on October 30, 1993, Officer Evelyn Gort, an off-duty Metro-Dade Detective who worked as a fraud and economic crimes investigator, was shot and killed during a robbery, and

WHEREAS, Officer Gort and a companion, Antonio Calafell, were approached outside their friend's apartment complex by a stranger pointing a gun at them, and

WHEREAS, while her companion turned over his car keys and \$3 to the robber, Officer Gort drew her service revolver and attempted to halt the robbery but was fatally shot, and

WHEREAS, Officer Gort apparently had wounded the robber in the exchange of gunfire between them, for he was later dropped off at Jackson Memorial Hospital by an unidentified motorcyclist for treatment of a gunshot wound, and

WHEREAS, Officer Gort is described as "an energetic, outstanding officer who often went beyond the call of duty during her seven years on the force," and

WHEREAS, in addition to engaging in a law enforcement career, Officer Gort was raising her two daughters, Melissa Brownstein-Gort, who is 14 years old, and Tiffani Gort, who is 7 years old, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That Officer Evelyn Gort is remembered as an outstanding and exemplary law enforcement officer whose senseless murder is a loss to her family, friends, and colleagues and to this state.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate and the Seal of the House of Representatives affixed, be presented to the family of Officer Evelyn Gort as a tangible token of the sentiments expressed in this resolution and of the respect of the members of the Florida Legislature.

—was introduced out of order and read by title. On motion by Senator Silver, by two-thirds vote **SCR 40-C** was read the second time in full, adopted and certified to the House.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Kirkpatrick, by two-thirds vote **SB 14-C** was withdrawn from the Committee on Commerce.

On motions by Senator Dudley, by two-thirds vote **SB 28-C** was withdrawn from the committees of reference and further consideration.

MOTIONS

On motions by Senator Kirkpatrick, by two-thirds vote **Senate Bills 12-C** and **14-C** were established as the Special Order Calendar for this day.

On motions by Senator Kirkpatrick, the rules were waived and the following schedule changes were made for Wednesday, November 3: the Committee on Transportation was granted permission to meet from 8:00 a.m. until 10:00 a.m.; the Committee on Appropriations was granted permission to meet from 10:30 a.m. until 12:30 p.m., in lieu of 2:00 p.m.; the

Committees on Health Care; Corrections, Probation and Parole; and the Select Committee on Governmental Reform were granted permission to meet from 1:00 p.m. until 2:45 p.m. in lieu of 3:15 p.m.; and the Senate was scheduled to meet at 10:15 a.m. as noticed and at 3:00 p.m. until completion.

On motions by Senator Jenne, the provisions of Rule 2.39 relating to two-hour notice of amendments to be considered by a committee were waived; and the Committee on Appropriations was granted permission to consider **CS for SB 10-C, SB 18-C, SB 32-C and SB 36-C** at the meeting November 3.

On motion by Senator Turner, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to consider **SB 24-C** at the meeting November 3.

On motions by Senator Grogan, the rules were waived and the Committee on International Trade, Economic Development and Tourism was granted permission to consider **Senate Bills 30-C and 32-C** at the meeting November 3.

On motions by Senator Hargrett, the rules were waived and the Committee on Transportation was granted permission to consider **Senate Bills 26-C and 34-C** at the meeting November 3.

On motion by Senator Boczar, the provisions of Rule 2.39 relating to two-hour notice of amendments to be considered by a committee were waived; and the Committee on Governmental Operations was granted permission to consider **SB 20-C** at the meeting November 3.

SPECIAL ORDER

SB 12-C—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; revising certain definitions; amending s. 440.05, F.S.; providing for election and revocation of election of an exemption; amending s. 440.055, F.S.; requiring notice of noncoverage at worksites under certain circumstances; amending s. 440.09, F.S.; providing for extent of workers' compensation coverage; requiring that injuries be established by medical evidence; clarifying compensation for subsequent injuries related to preexisting conditions; providing presumptions that intoxication or drug use caused certain injuries; amending s. 440.092, F.S.; excluding from certain travel benefits certain travel to and from work; amending s. 440.10, F.S.; deleting a requirement that contractors or subcontractors show proof of workers' compensation coverage before receiving a building permit; providing a penalty for employers who fail to secure required compensation; deleting a penalty; amending s. 440.101, F.S.; clarifying legislative intent relating to drug-free workplaces; amending s. 440.102, F.S.; clarifying and amending drug-free workplace program provisions; providing definitions; amending notice provisions; providing employer requirements for employer eligibility for certain discounts; reassigning certain responsibilities of the Department of Health and Rehabilitative Services for setting testing standards and overseeing testing; requiring a carrier or insurer to pay for treatment that occurs before a denial of benefits and to give notice to health care providers; allowing random drug testing by a public employer; relieving employers of civil liability, as specified; providing for reassigning an employee who tests positive for drugs or is in a drug-rehabilitation program; creating s. 440.103, F.S.; requiring contractors, as a condition to receiving a building permit, to show proof of having secured compensation for their employees; providing for a certificate of such proof; creating s. 440.104, F.S.; providing for actions for damages by losers of competitive biddings against certain winners of such biddings; specifying recovery of damages; providing for attorney's fees; providing exceptions; providing for joinder in such actions; barring certain actions under certain circumstances; creating s. 440.105, F.S.; prohibiting certain activities; providing penalties; creating s. 440.1055, F.S.; providing for claims forms to carry a notice of penalty for including false or misleading information on a statement of claim, as defined; creating s. 440.106, F.S.; providing civil remedies under certain circumstances; authorizing the Division of Workers' Compensation of the Department of Labor and Employment Security; to impose certain penalties; creating s. 440.107, F.S.; providing powers of the division to enforce compliance with coverage requirements; authorizing the division to assess penalties; amending s. 440.13, F.S.; revising provisions related to providing medical services and supplies; providing definitions; requiring employers to furnish medical treatment; providing for provider eligibility for payment; providing for authorizations for payments to providers; requiring health care providers to submit certain reports to carriers under certain circumstances; providing for independent medical examinations; providing for utilization review; providing for resolution of utilization and

reimbursement disputes; providing for penalties for overutilization or certain violations of ch. 440, F.S.; providing for certification of expert medical advisors; requiring the division to contract with such advisors to provide peer review or medical consultation under certain circumstances; providing procedures for expert medical advisors; relieving such advisors of legal liability; requiring carriers to timely compensate such an advisor; providing penalties for failure to compensate; providing for audits by the division; providing for division jurisdiction; creating a three-member panel to adopt schedules of reimbursement allowances; providing for managed care; providing for removal of physicians from certain lists; providing for payment of medical fees; providing for developing and implementing state practice parameters for outpatient services for workers' compensation claimants; creating s. 440.134, F.S., the "Workers' Compensation Managed Care Organization Act"; providing definitions; providing for the Department of Insurance to administer this section and to adopt and enforce rules; providing that a workers' compensation managed care organization, or WCMCO, is exempt from the Florida Insurance Code; providing that this section is exclusively applicable to WCMCOs; requiring a certificate of authority for owning, operating, or controlling a WCMCO or providing certain services; providing requirements for obtaining or renewing a certificate of authority; requiring an annual report; providing fees for licensure and license renewal; requiring a WCMCO to have a quality assurance program; providing requirements for changes of ownership; requiring notice of and prerequisites to expanding the WCMCO's geographic area; specifying the minimum net worth that a WCMCO must maintain; prohibiting certain ownership interests in or by a WCMCO; requiring such organization to disclose certain financial interests; providing for suspending, revoking, or refusing to renew certificates of authority and requiring notice thereof; providing for the maximum duration of suspension of a certificate, for obligations of the WCMCO during that period, and for reinstatement; providing obligations of carriers during suspension or revocation of a WCMCO's certificate of authority; providing for administrative fines; providing penalties for operating without a valid certificate of authority; providing for maintenance of and access to records; specifying other laws applicable to WCMCOs; requiring forms to be filed with and approved by the Department of Insurance; setting rate limits; providing for periodic examination; providing for the disposition of fees; prohibiting WCMCOs from transacting insurance business without authorization; providing penalties for a false or fraudulent application and for other violations of this section; requiring medical services and supplies to be provided in specified circumstances; providing that ch. 440, F.S., applies to certain health maintenance organizations under specified conditions; amending s. 440.135, F.S.; amending provisions relating to pilot programs for medical and remedial care; allowing such programs to combine other health insurance and workers' compensation insurance into 24-hour health insurance coverage; amending s. 440.15, F.S.; clarifying an employee's burden in proving permanent total disability; revising guidelines for payments to employees who are totally disabled; providing for continued vocational evaluations or testing under certain circumstances; requiring that notice of evaluations or testing be given to an employee; providing procedures for withholding payments from an employee who refuses evaluation or testing; requiring claimants to prove permanent total disability in certain circumstances; prohibiting findings of permanent total disability for sheltered employment under certain circumstances; excluding from benefits employees who refuse to apply for or cooperate with application for social security benefits; providing for establishment of a uniform permanent impairment rating schedule; providing for determinations of permanent impairment by certain persons; providing for supplemental benefits, which are regulated solely by this section; deleting provisions relating to wage-loss benefits; amending procedural requirements relating to benefits for temporary partial disability; providing for repayment of indemnity benefits for which there was no entitlement; providing for the coordination of benefits; amending s. 440.16, F.S.; increasing required amount for funeral expenses; amending s. 440.185, F.S.; clarifying procedures related to notice of injury or death; deleting a requirement that the division monitor certain provision of benefits; deleting provisions relating to an electronic reporting system; amending s. 440.19, F.S.; clarifying procedures for filing claims for benefits; providing for withdrawal of claims; providing for amending claims; providing conditions to a motion to dismiss; deleting a requirement that the division assist certain injured employees; deleting provisions relating to requiring a judge of compensation claims to mail claims to the division and requiring the division to facilitate the resolution of conflicts in workers' compensation cases; creating s. 440.191, F.S.; creating the Employee Assistance Office in the division; providing procedures, duties, and responsibilities of the office; amending s. 440.20, F.S.; amending conditions of payment of benefits;

requiring the division to monitor carriers to assure timely payment; providing for fines; deleting a requirement that the division assess a fine under certain circumstances; prohibiting the payment of attorney's fees; amending provisions related to lump-sum payments; providing applicability of this section to all claims settlements after a specified date; amending s. 440.207, F.S.; amending requirements for workers' compensation system guide; amending s. 440.21, F.S.; deleting a penalty related to invalid employer-employee agreements; creating s. 440.211, F.S.; authorizing certain collective bargaining agreements; providing criteria; amending s. 440.25, F.S.; clarifying provisions requiring a pretrial hearing and a final hearing under certain circumstances; providing for mediation; providing procedures for expediting resolution of claims; amending procedures for resolution of claims; providing for uniform local rules for workers' compensation; amending s. 440.29, F.S.; requiring receipt into evidence by a judge of compensation claims of certain medical reports; amending s. 440.32, F.S.; providing for assessing costs and attorney's fees against an attorney who frivolously brings or maintains proceedings; amending s. 440.34, F.S.; amending limitations on attorney's fees that may be approved as reasonable for services to claimants and to defendants; prohibiting carriers from recouping attorney's fees by specified means; creating s. 440.345, F.S.; requiring reporting of attorney's fees to the division; amending s. 440.38, F.S.; revising and clarifying provisions requiring security for payments of compensation; reassigning certain oversight functions from the division to the Department of Insurance; providing for the revocation of an employer's right to self-insure and for alternatives to revocation; providing additional options for employer coverage; amending provisions for indemnity benefits; requiring specified life-insurance benefits; requiring carriers to maintain claims adjusters in this state; deleting a penalty for failure to comply; amending s. 440.381, F.S.; revising a penalty for understating payroll or misrepresenting employee duties; amending s. 440.385, F.S.; amending provisions regulating the Florida Self-Insurers Guaranty Association; reassigning certain functions from the Department of Labor and Employment Security to the Department of Insurance; amending s. 440.386, F.S.; assigning to the Department of Insurance certain functions relating to the insolvency of an individual self-insurer; creating s. 440.4416, F.S.; creating a state Workers' Compensation Advisory Council; providing for council duties, membership, meetings, and reimbursement; creating s. 440.4417, F.S.; creating a state Workers' Compensation Rules Advisory Council; providing for council duties, membership, meetings, and reimbursements; amending s. 440.45, F.S.; providing for nominations of judges of compensation claims by the Workers' Compensation Judicial Commission; providing qualifications for membership on the commission; providing that the Governor appoints commission members; providing that the judicial commission has the power to investigate and make recommendations to the Governor relating to the fitness for office of judges of compensation claims, and to impose sanctions; providing the Governor with power to remove such judges for specified causes; providing for review of the judicial commission's actions; placing restrictions on such a judge who vacates his judicial office; revising the duties of the Chief Judge; requiring the Chief Judge to report to the judicial commission on the performance of each judge; amending s. 440.49, F.S.; revising provisions relating to reemployment of injured workers and rehabilitation; focusing on limiting the liability for subsequent injury through the Special Disability Trust Fund; providing definitions; providing legislative intent; amending definitions; providing a deductible; providing for temporary compensation and medical benefits, and allowing partial reimbursement to the employer from the trust fund; providing for the effect that the employer's knowledge of a preexisting condition has upon his reimbursement; revising the list of compensable injuries; providing for assessments to maintain the trust fund; providing for the applicable law for purposes of determining entitlement to reimbursement; creating s. 440.491, F.S.; providing for reemployment status reviews and reports; providing for reemployment assessments; providing for medical care coordination and reemployment services; providing for training and education; specifying provider qualifications; requiring the division to monitor selection of providers, provision of services, and carrier practices; restricting adjudications of permanent and total disability; amending ss. 440.51, 440.515, F.S.; providing for the Department of Insurance to assume certain administrative functions, including auditing self-insurers and maintaining confidential reports; amending s. 440.572, F.S.; correcting a cross-reference; amending s. 440.59, F.S.; requiring the Department of Labor and Employment Security to make an annual report on the administration of ch. 440, F.S., to specified officials; creating s. 440.593, F.S.; providing for the division to establish an electronic reporting system; providing for the division to periodically examine each carrier; creating the "Florida Occupational Safety and Health Act," consisting of ss. 442.001; 442.002, 442.003,

442.004, 442.005, 442.006, 442.007, 442.008, 442.009, 442.0105, 442.011, 442.012, 442.013, 442.014, 442.015, 442.016, 442.017, 442.018, 442.019, 442.0195, 442.021, 442.022, F.S.; creating s. 442.001, F.S.; providing a short title; creating s. 442.002, F.S.; providing definitions; creating s. 442.003, F.S.; providing legislative intent; transferring, amending, and renumbering s. 440.09(5), F.S., as s. 442.004, F.S.; providing for rulemaking governing safety inspections and consultations; transferring, amending, and renumbering s. 440.152, F.S., as s. 442.005, F.S.; providing for the division to make a continuous study of occupational diseases; repealing s. 440.46(2), (3), F.S., and transferring, amending, and renumbering s. 440.46(1), F.S., as s. 442.006, F.S.; authorizing the division to enter and inspect places of employment for purposes of compliance; providing a penalty for refusing to allow an inspection; creating s. 442.007, F.S.; providing employers' responsibilities for employees' safety; creating s. 442.008, F.S.; providing the division with the authority to investigate safety at places of employment and to prescribe means of preventing accidents and occupational diseases; creating s. 442.009, F.S.; providing the division and its representatives with a right of entry to make inspections; creating s. 442.0105, F.S.; requiring employers whose employees have a high frequency or severity of work-related injuries to implement a safety and health program, for division approval; providing for rulemaking; creating s. 442.011, F.S.; requiring carriers to provide safety consultations to their policyholders on request; requiring a report to the division; requiring the division to set out criteria for, and to approve, safety programs; creating s. 442.012, F.S.; requiring employers to establish workplace safety committees; requiring the division to adopt certain rules relating to committee membership and duties and to employer record-keeping; requiring employees to receive their regular wages while engaged in committee activities; creating s. 442.013, F.S.; providing for employer penalties; creating s. 442.014, F.S.; providing for cooperation between the division and the Federal Government for specified purposes; creating s. 442.015, F.S.; providing penalties for certain employers who fail to implement a safety and health program; creating s. 442.016, F.S.; providing for paying the expenses of administering this chapter; creating s. 442.017, F.S.; providing a criminal penalty for an employer or owner that refuses to allow entry and inspections by division representatives; creating s. 442.018, F.S.; providing employees' rights and responsibilities; creating s. 442.019, F.S.; providing for compliance; creating s. 442.20, F.S.; prohibiting making false statements to carriers; creating s. 442.021, F.S.; providing penalties for carriers under certain circumstances; creating s. 442.022, F.S.; providing preemptive authority to the division to adopt certain rules; creating s. 442.023, F.S.; prohibiting certain acts; providing penalties; providing a statute of limitations; transferring the self-insurance regulatory functions of the Department of Labor and Employment Security to the Department of Insurance; preserving current administrative rules; providing that the validity of current legal actions is not affected by the transfer; authorizing group self-insurers who have certificates of authority under current law to receive certificates of authority under this act; creating s. 624.461, F.S.; defining the term "self-insurance fund"; amending s. 624.462, F.S.; prohibiting a commercial self-insurance fund from participating in the Florida Self-Insurance Fund Guaranty Association; transferring, amending, and renumbering s. 440.57, F.S., as s. 624.4621, F.S.; providing for group self-insurance funds; transferring administrative responsibilities from the division to the Department of Insurance; requiring participation in the Florida Self-Insurance Fund Guaranty Association; transferring, amending, and renumbering s. 440.575, F.S., as s. 624.4622, F.S.; providing for local government self-insurance funds; correcting cross-references; transferring, amending, and renumbering s. 440.571, F.S., as s. 624.46225, F.S.; correcting a cross-reference; amending ss. 624.463, 624.474, 624.476, 624.480, 624.482, 624.484, 624.486, 624.488, F.S.; replacing the term "commercial self-insurance fund" with the term "self-insurance fund" in provisions relating to the conversion of such a fund into a domestic mutual insurer, relating to such a fund's payment of dividends or refunds to its members, relating to allowing assessments to be made upon such funds for deficiencies, relating to impaired funds, relating to filing, approval, and disapproval of forms, relating to the making and use of rates, relating to the registration of the funds, relating to filing, approval, and disapproval of forms, relating to the registration of the fund's agent, relating to periodic examinations of the fund, and relating to the applicability of related laws to the funds; creating s. 624.4741, F.S.; providing venue in assessment actions brought by a self-insurance fund; transferring, amending, and renumbering s. 440.58, F.S., as s. 624.483, F.S.; reassigning, from the division to the Department of Insurance, certain duties relating to self-insurers' payments of delinquent premiums and assessments; transferring, amending, and renumbering s. 440.5705, F.S., as s. 624.487, F.S.; correcting cross-references to conform to this act; reassigning, from the Department of Labor and Employment

Security to the Department of Insurance, duties relating to enforcing specified insurance provisions and rulemaking; amending s. 627.041, F.S.; amending the definition of the term "insurer" to include group self-insurance funds; creating s. 627.212, F.S.; providing for carriers voluntarily to impose a workplace safety program surcharge on certain policyholders or fund members; providing for rulemaking; amending s. 627.311, F.S.; providing for joint underwriters and joint reinsurers; providing purposes and requirements; providing for supervision of the joint underwriting plan by a board of governors; providing board members' qualifications and terms of office; requiring a plan of operation and prescribing contents of the plan; providing for funding the plan; providing qualifications necessary for insurance under the plan; requiring an independent actuarial certification; providing procedures in case of deficits; allowing the plan to retain excess premiums and assessments; providing liability for losses arising after a specified date; providing that plan losses are not to come from insurers; providing that the joint underwriting plan is not a state agency, except as specified; providing alternatives for paying premium taxes; amending s. 627.4133, F.S.; providing that workers' compensation and employer's liability insurance is subject to certain notice provisions; creating part V of ch. 631, F.S., the "Florida Self-Insurance Fund Guaranty Association Act," consisting of ss. 631.90, 631.905, 631.91, 631.915, 631.92, 631.925, 631.93, 631.935, 631.94, 631.945, 631.95, 631.955, 631.96, 631.965, 631.97, 631.975, 631.98, 631.985, 631.99, 631.995, F.S.; providing a title; providing purposes; providing for liberal construction; providing definitions; creating the association and fund; providing for an organizational meeting and a board of directors; providing powers and duties of the association; providing for assessments; requiring a plan of operation to be submitted to the department; specifying plan contents; providing for the prevention of insolvencies; providing for open association records and open meetings; providing immunity to the association and to the Department of Insurance; prohibiting certain advertisements or solicitations; providing powers of the Department of Insurance; providing liability of members of an impaired self-insurance fund for unpaid claims; providing for certain effects of paid claims; providing for a stay of proceedings and for reopening of default judgments; prohibiting an award of attorney's fees, except as specified; providing for assumption of liability relating to claimants covered by the Certified Pulpwood Dealers Self-Insurers Fund; requiring the district court of appeal to use the state video teleconferencing network to facilitate access to courts; repealing ss. 440.37, 440.38, 440.48, 440.56, F.S., relating to misrepresentation and fraudulent activity for the purpose of obtaining or denying workers' compensation benefits, relating to security for compensation, relating to an annual report of the administration of ch. 440, F.S., and relating to workplace safety rules and provisions; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Jennings and adopted:

Amendment 1—On page 21, line 29, strike the semicolon (;) and insert: .

Amendment 2—On page 22, line 4, strike "; and" and insert: .

Amendment 3—On page 27, lines 23-31, through page 28, lines 1-2, strike all of said lines and insert:

440.055 *Notice requirements; Annual employer affidavits.*—~~An if-an employer who employs fewer than four employees, who is permitted by law to elect not to secure payment of compensation under this chapter, and who chooses not to do so and chooses not to secure payment of compensation under this chapter, the such employer shall post clear written notice in a conspicuous location at each work site directed to all employees and other persons performing services at the work site of their lack of entitlement to benefits under this chapter. shall file, on an annual basis, an affidavit with the division stating that he has not secured payment of compensation under this chapter for his employees and shall provide clear written notice to all employees of their lack of entitlement to benefits under this chapter. Such affidavit shall also contain the nature of the employer's business, the business address, and the telephone number.~~

Amendment 4—On page 36, strike line 19, and insert: requires. As used in this act the term:

Amendment 5—On page 66, line 25, strike "of" and insert: or

Amendment 6—On page 68, line 30, after "patient." insert: Except in the case of a catastrophic injury as defined in s. 440.13(1)(d) work-

hardening programs, pain management clinics, or weight loss clinics are not medically necessary. However, nothing contained herein shall be construed to prevent individual services that alleviate the pain of an injury from being determined medically necessary by a provider or managed care organization certified in accordance with this chapter.

Amendment 7—On page 70, line 27, strike after "apparatus." through line 31

Amendment 8—On page 73, line 21, strike "industrial" and insert: work-related

Amendment 9—On page 75, line 7, after "required." insert: Authorization of a treatment plan does not constitute express authorization for purposes of this section, except to the extent the carrier provides otherwise in its authorization procedures.

Amendment 10—On page 84, line 30, strike "remedial"

Amendment 11—On page 110, lines 23-24, strike all of said lines after (b) and insert: loss of both hands, or both arms, or both feet,

Amendment 12—On page 155, line 13, after "440.13(1)(b)." insert: *If a carrier contracts with a servicing agent to fulfill its administrative responsibilities under this chapter, the payment practices of the servicing agent are deemed the payment practices of the carrier for the purpose of assessing penalties against the carrier.*

Amendment 13—On page 167, strike line 12, and insert: *within 15 days after receipt of the request. If a request*

Amendment 14—On page 178, strike lines 8-12, and insert: *The payment of attorneys' fees to a*

Amendment 15—On page 181, line 21, strike the comma (,)

Amendment 16—On page 214, strike lines 17-21, and insert: *Workers' Compensation Judicial Commission.*

Amendment 17 (with Title Amendment)—On page 233, line 23, after the period (.) insert: *For dates of accident on or before January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over \$10,000 in benefits, serve notice of the acceptance of the claim for reimbursement.*

And the title is amended as follows:

In title, on page 10, line 23, after the semicolon (;) insert: *revising the criteria by which claims for reimbursement are accepted;*

Amendment 18—On page 233, strike lines 24 and 25 and insert: *to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the*

Amendment 19—On page 249, strike lines 23 and 24 and insert:

Section 1. Effective July 1, 1994, Examination of carriers.—The Division of Workers' Compensation of the

Amendment 20—On page 262, line 7, after "Insurance" insert: *effective July 1, 1994*

Amendment 21—On page 262, strike line 19, and insert: *440.57, Florida Statutes, on July 1, 1994,*

Amendment 22—On page 279, line 7, strike "(e)" and insert: (d)

Amendment 23—On page 279, line 14, strike "(f)" and insert: (e)

Amendment 24—On page 279, line 24, strike "(g)" and insert: (f)

Amendment 25—On page 279, line 30, strike "(h)" and insert: (g)

Amendment 26—On page 280, between lines 4 and 5, insert:

(h) Policies for insured shall be issued by the plan.

Amendment 27—On page 280, line 5, strike "(j)" and insert: (i)

Amendment 28—On page 280, line 9, strike "(k)" and insert: (j)

Amendment 29—On page 280, line 13, strike "(l)" and insert: (k)

Amendment 30—On page 280, line 18, strike "(m)" and insert: (l)

Amendment 31—On page 293, line 19, after “440.38,” insert: 440.43,

Amendment 32—On page 293, line 22, before the period (.) insert: , except as otherwise provided in this act

The Committee on Commerce recommended the following amendments which were moved by Senator Forman and failed:

Amendment 33—On page 23, between lines 15 and 16, insert:

9. *An individual referred by a nurse registry licensed under s. 400.506.*

Amendment 34—On page 66, strike lines 1 and 2 and insert: “Family member” means a spouse, father or stepfather, mother or stepmother, brother or stepbrother, sister or stepsister, child or stepchild, grandchild, father-in-law, mother-in-law, aunt,

Amendment 35—On page 66, between lines 24 and 25, insert:

5. A substantial loss of hearing;

(Renumber subsequent paragraphs.)

Amendment 36—On page 114, strike lines 3-5.

Amendment 37—On page 117, strike lines 7-15, and insert: be used. *Determination of permanent impairment under this schedule shall be made by a physician licensed under chapter 458, a doctor of osteopathy licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatrist licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, as appropriate considering the nature of the injury. No other persons are authorized to render opinions regarding the existence of or the extent of permanent impairment. No physicians may render an opinion on an impairment rating unless the physician has been certified by the division to render impairment rating opinions. The division shall certify a physician who has taken a course in impairment ratings approved by the division and offered by the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association, the Florida Optometric Association or the Florida Dental Association. However, the division may certify a physician who is board certified in his specialty, but who has not taken an approved course. The division is authorized to revoke the certification of any physician who does not follow or adhere to the impairment guidelines in rendering impairment rating opinions.*

The Committee on Commerce recommended the following amendment which was moved by Senator Wexler and failed:

Amendment 38—On page 175, lines 21-23, and on page 176, lines 1-31, and on page 177, lines 1-5, strike all of said lines and insert:

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 judge of compensation claims or court having jurisdiction over such proceedings. Except as provided by this subsection, any attorney’s fee approved by a judge of compensation claims 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 to be provided during the first 10 years after the date the claim is filed, and 10 percent of the remaining amount of the benefits secured. However, the judge of compensation claims 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.~~

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

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

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

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

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

(f)(h) The contingency or certainty of a fee.

(2) In awarding a reasonable claimant’s attorney’s fee, the judge of compensation claims shall consider only those benefits to the claimant that the attorney is responsible for securing. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorney’s fees awarded by the judge of compensation claims. For purposes of this section, the term “benefits secured” means benefits obtained as a result of the claimant’s attorney’s legal services rendered in connection with the claim for benefits. However, such term does not include future medical benefits to be provided on any date more than 5 years after the date the claim is filed.

The Committee on Commerce recommended the following amendments which were moved by Senator Jennings and adopted:

Amendment 39 (with Title Amendment)—On page 18, between lines 6 and 7, insert:

Section 1. Section 440.015, Florida Statutes, is amended to read:

440.015 Legislative intent.—It is the intent of the Legislature that the Workers’ Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker’s return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers’ compensation cases shall be decided on their merits. The workers’ compensation system in Florida is based on a mutual renunciation of common law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers’ compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers’ compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers’ compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers’ Compensation shall administer the Workers’ Compensation Law in a manner which facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments. All licensed physicians and health care providers in this state shall be required to make their services available to emergency treatment or any employee eligible for workers’ compensation benefits. To refuse to make such treatment available is cause for revocation of a license.

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 440.015, F.S.; revising the legislative intent;

Amendment 40 (with Title Amendment)—On page 40, line 30, after “discounts.” insert: *Effective July 1, 1994, an employer may not bid for a contract with the state, a county, or a municipality unless the employer maintains a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules.*

And the title is amended as follows:

In title, on page 1, line 30, after the semicolon (;) insert: providing requirements for bidding for a contract with the state, a county, or a municipality;

Amendment 41—On page 59, strike line 20, and insert: chapter 458, osteopathic physician licensed under chapter 459, chiropractic physi-

cian licensed under chapter 460, or podiatric physician licensed under chapter 461 to maintain or operate a hospital licensed under chapter 395, or to knowingly

Amendment 42 (with Title Amendment)—On page 65, between lines 16 and 17, insert:

Section 440.108, Florida Statutes, is created to read:

440.108 Duty to report; investigation by Bureau of Workers' Compensation Insurance Fraud.—

(1) The following individuals have a duty to report under this section:

(a) Any person or entity licensed under the Insurance Code, or any employee of that person.

(b) Any entity authorized to self-insure for workers' compensation under this chapter or the Insurance Code.

(c) Any professional practitioner licensed or regulated by the Department of Professional and Business Regulation, except as otherwise provided by law.

(d) Any member of a medical review committee as defined in s. 766.101, or any member of a private medical review committee.

(2) Whenever any of the above named persons observes, suspects, or learns of an act or practice which may constitute a felony or misdemeanor under this chapter, that person shall inform the Department of Insurance, Division of Insurance Fraud, Bureau of Workers' Compensation Insurance Fraud.

(3) The bureau shall review all such reports and information, and conduct an investigation to determine whether a felony or misdemeanor in violation of this chapter has occurred. The bureau may require the reporting individual to provide such additional information as is available to that person.

(4) The bureau may administer oaths and affirmations, request the attendance of witnesses or proffering of matter, or collect evidence and compel the attendance of any person or matter pursuant to its authority under s. 20.13(4) and s. 626.989.

(5) If the bureau determines that a felony or misdemeanor in violation of this chapter has occurred, it shall report its findings to the state attorney or other prosecuting agency with jurisdiction over the violation, and to the appropriate licensing agency. If the state attorney or other prosecuting agency fails to commence prosecution within 60 days of receiving the bureau's report, it shall inform the bureau of its reasons for lack of prosecution. The bureau shall maintain and periodically publish a registry of persons who plead guilty to, or are convicted of, a misdemeanor or felony pursuant to this chapter.

(6) A person or entity is not subject to civil liability for libel, slander, or other statutory or common law actions premised upon filing reports or furnishing information required by this section or by the bureau without fraud, bad faith, or malice. Individuals or entities shall not otherwise be liable under any legal theory for complying with the requirements of this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 3, line 6, after the semicolon (;) insert: creating s. 440.108, F.S.; providing for duty to report for certain individuals; authorizing the Bureau of Workers' Compensation Insurance Fraud to investigate and report;

Amendment 43—On page 68, strike lines 10 through 17 and renumber subsequent paragraphs.

Amendment 44—On page 69, strike line 7, and insert: schedule of drugs created pursuant to s. 465.025(6), or is available at a cost lower than its generic equivalent.

Amendment 45—On page 175, between lines 18 and 19, insert:

(3) *Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. The signature of an attorney constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the*

signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this section, the judge of compensation claims or any court having jurisdiction of proceedings, upon motion or upon its own initiative, shall impose upon the person who signed it, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Amendment 46—On page 162, line 24, through page 163, line 19, strike all of said lines and insert:

Section 26. Section 440.211, Florida Statutes, is created to read:

440.211 Authorization of collective bargaining agreement.—

(1) Subject to the limitation stated in subsection (2), a provision in any collective bargaining agreement filed with the division between an individually self-insured employer or other employer upon consent of the employer's carrier and a recognized or certified exclusive bargaining representative establishing any of the following shall be valid and binding.

(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter which may include, but is not limited to, conciliation, mediation, and arbitration. Arbitration held pursuant to this section shall be binding on the parties.

(b) A preferred provider that meets the requirements of s. 440.13.

(c) The use of a limited list of physicians to conduct independent medical examinations which the parties may agree shall be the exclusive source of independent medical examiners pursuant to this chapter.

(d) A light-duty, modified-job, or return-to-work program.

(e) A vocational rehabilitation or retaining program.

(2) Nothing in this section shall allow any agreement that diminishes an employee's entitlement to benefits as otherwise set forth in this chapter. Any such agreement in violation of this provision shall be null and void.

Amendment 47—On page 188, line 28, through page 189, line 1, strike everything after the period (.) and insert: *Self-insurers whose compensation payments are administered through a third party and carriers of insurance shall maintain a claims adjuster within this state during any period for which there are any open claims against such self-insurer or carrier arising under the compensation insurance written by the self-insurer or carrier. Individual self-insurers whose compensation payments are administered by employees of the self-insurer shall not be required to have their claims adjuster situated within this state. Individual self-insurers shall not be*

Amendment 48—On page 189, strike lines 1-3, and insert: *written by the carrier. Individual self-insurers shall not be required to have their claims adjusters situated within this state.*

Amendment 49—On page 191, strike lines 4-14, and insert:

(6) If an employer intentionally understates or conceals payroll, or misrepresents or conceals employee duties so as to avoid proper classification for premium calculations, or misrepresents or conceals information pertinent to the computation and application of an experience rating modification factor, the employer, or his agent or attorney, shall pay, to the insurance carrier, a penalty of ten times the amount of the difference in premium paid and the amount the employer should have paid and reasonable attorneys' fees. The penalty may be enforced in the circuit courts of this state, in addition to any additional premium due resulting from an audit, a 12 percent penalty on the amount underpaid. ~~The penalty shall be paid to the carrier.~~

Amendment 50—On page 205, between lines 25 and 26, insert:

Section 38. Section 440.442, Florida Statutes, is amended to read:

440.442 Code of Judicial Conduct.—The Chief Judge, and judges of compensation claims shall observe and abide by the Code of Judicial Conduct as provided in this section, ~~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, except for the provisions of subparagraph C of Canon 6.~~ Any material violation of a provision of the Code of Judicial Conduct shall constitute either malfeasance or misfeasance in office and shall be grounds for suspension and removal of such Chief Judge, or judge of compensation claims by the Governor.

(1) **A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.**—An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

(2) **A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS ACTIVITIES.**—

(a) A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(b) A judge should not allow his personal relationships to influence his judicial conduct of judgment. A judge should not lend the prestige of the office to advance the private interest of others; nor should he convey or authorize others to convey the impression that they are in a special position to influence him. A judge should not testify voluntarily as a character witness.

(3) **A JUDGE SHOULD PERFORM THE DUTIES OF HIS OFFICE IMPARTIALLY AND DILIGENTLY.**—The judicial duties of a judge take precedence over all his other activities. The judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards with respect to adjudicative responsibilities apply:

(a) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(b) A judge should maintain order and decorum in proceedings.

(c) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom he must deal in a official capacity, and should request similar conduct of lawyers, and of his staff, court officials, and others subject to his direction and control.

(4) **A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE.**—A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially on any issue that may come before him:

(a) Speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(b) Appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(c) Serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice and assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fundraising activities.

(d) Make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

(5) **A JUDGE SHOULD REGULATE HIS EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH HIS JUDICIAL DUTIES.**—

(a) **Avocational activities.**—A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, or other social and recreational activities, if such avocational activities do not detract from the dignity of the office or interfere with the performance of his judicial duties.

(b) **Civil and charitable activities.**—A judge may not participate in civic and charitable activities that reflect adversely upon his impartiality or interfere with the performance of his duties. A judge may serve as an officer, director, trustee, or nonlegal advisory of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

1. A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

2. A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of the office for that purpose, but may be listed as an officer, director, or trustee of such an organization. A judge should not be a speaker or a guest of honor at any organization's fundraising events, but may attend such events.

3. A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

(c) **Financial activities.**—

1. A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves.

2. Subject to the requirements of subsection (1), a judge in an individual or corporate capacity may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business, except a closely held family business that does not conflict with subsection (1).

3. A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified. As soon as he can do so without serious financial detriment, he should divest himself of investments and other financial interests that might require frequent disqualifications.

4. A judge should not accept a gift, bequest, favor, or loan from anyone except as follows:

a. A judge may accept a gift incident to a public testimonial to him; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

b. A judge may accept ordinary hospitality; a gift, bequest, favor or loan from a relative; a wedding or an engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

c. A judge may accept any other gift, bequest, favor, or loan exceeding \$100 only if the donor is not a party or other person whose interests have recently come or may likely come before him in the immediate future.

5. A judge should make a reasonable effort to inform himself about the personal financial interests of members of his family residing in his household and shall report any gift, bequest, favor, or loan received thereby of which he has knowledge and which tends to reflect adversely on his impartiality, in the same manner as he reports compensation in subsection 6.

6. For the purpose this section, "member of his family residing in his household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of his family, who resides in his household.

7. A judge is not required by this section to disclose his income, debts, or investments, except as provided in sections (3) and (6).

8. Information required by a judge in which his judicial capacity should not be used or disclosed by him in financial dealings or for any other purpose not related to his judicial duties.

(6) Fiscal matters of a judge should be conducted in a manner that will not give the appearance of influence or impropriety. A judge should regularly file public reports as required by s. 8, Art. II of the State Constitution, and should publicly report gifts.

(a) Compensation for quasi-judicial and extrajudicial services and reimbursement of expenses.—A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this section, if the source of such payments does not give the appearance of influencing the judge in his judicial duties or otherwise give the impression of impropriety subject to the following restrictions:

1. Compensation: Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

2. Expense reimbursement: Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, to his spouse. Any payment in excess of such an amount is compensation.

(b) Public financial reporting.—

1. Income and assets: A judge shall file such public reports as may be required by law for all public officials to comply fully with the provisions of s. 8, Art. II of the State Constitution. The form for public financial disclosure shall be that recommended or adopted by the Florida Commission on Ethics for use by all public officials. The form shall be filed in the office of the Secretary of State on the date prescribed by law.

2. Gifts: A judge shall file a public report of all gifts which are required to be disclosed under s. 112 [Canon 5C(4)(c) of the Code of Judicial Conduct]. The report of gifts received in the preceding calendar year shall be filed in the office of the Secretary of State on September 15, 1977, and on or before July 1 of each year thereafter.

(Renumber subsequent subsections.)

Amendment 51 (with Title Amendment)—On page 245, between lines 17 and 18, insert:

Section 41. Paragraph (a) of subsection (1) of section 440.50, Florida Statutes, is amended to read:

440.50 Workers' Compensation Administration Trust Fund.—

(1)(a) There is established in the State Treasury a special fund to be known as the "Workers' 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) and the funding of the Bureau of Workers' Compensation Fraud within the Department of Insurance. Such fund shall be administered by the division. The 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.

(Renumber subsequent subsections.)

And the title is amended as follows:

In title, on page 11, line 6, after "disability," insert: amending s. 440.50, F.S.; providing for the funding of the Bureau of Workers' Compensation Fraud within the Department of Insurance from the Workers' Compensation Administration Trust Fund;

Amendment 52—On page 253, between lines 25 and 26, insert:

(3) Assist employers in the development and implementation of employee safety-training programs by contracting with professional safety organizations.

Amendment 53 (with Title Amendment)—On page 293, between lines 18 and 19, insert:

Section 93. Paragraph (a) of subsection (1) of section 772.102, Florida Statutes, is amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 409.325, relating to public assistance fraud.
3. Sections 440.105 or 440.106, relating to workers' compensation.
- 4.3. Chapter 517, relating to securities transactions.
- 5.4. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
- 6.5. Chapter 550, relating to jai alai frontons.
- 7.6. Chapter 552, relating to the manufacture, distribution, and use of explosives.
- 8.7. Chapter 562, relating to beverage law enforcement.
- 9.8. Chapter 687, relating to interest and usurious practices.
- 10.9. Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
- 11.10. Chapter 782, relating to homicide.
- 12.11. Chapter 784, relating to assault and battery.
- 13.12. Chapter 787, relating to kidnapping.
- 14.13. Chapter 790, relating to weapons and firearms.
- 15.14. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.
- 16.15. Chapter 806, relating to arson.
- 17.16. Chapter 812, relating to theft, robbery, and related crimes.
- 18.17. Chapter 815, relating to computer-related crimes.
- 19.18. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
- 20.19. Section 827.071, relating to commercial sexual exploitation of children.
- 21.20. Chapter 831, relating to forgery and counterfeiting.
- 22.21. Chapter 832, relating to issuance of worthless checks and drafts.
- 23.22. Section 836.05, relating to extortion.
- 24.23. Chapter 837, relating to perjury.
- 25.24. Chapter 838, relating to bribery and misuse of public office.
- 26.25. Chapter 843, relating to obstruction of justice.
- 27.26. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
- 28.27. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
- 29.28. Chapter 893, relating to drug abuse prevention and control.
- 30.29. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.
- 31.30. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 17, line 26, after "courts;" insert: amending s. 772.102, F.S., to include violations of ss. 440.106 and 440.107, F.S., as a criminal activity;

Amendment 54 (with Title Amendment)—On page 293, between lines 18 and 19, insert:

Section 93. Subsection (4) of section 27.34, Florida Statutes, is amended to read:

27.34 Salaries and other related costs of state attorneys' offices; limitations.—

(4) *Notwithstanding s. 27.25, the Insurance Commissioner may contract with the state attorney of any judicial circuit of the state or the Justice Administration Commission for the prosecution of criminal violations of the Workers' Compensation Law and related crimes. Such contracts may provide for the training, salary, and expenses of one or more assistant state attorneys used in the prosecution of such crimes.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 17, line 26, after the semicolon (;) insert: amending s. 27.34, F.S., authorizing the Insurance Commissioner to contract with state attorneys to prosecute certain criminal violations and to contribute funds to pay salaries and expenses of assistant state attorneys;

Amendment 55—On page 293, between lines 18 and 19, insert:

Section 93. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 403.727(3)(b), relating to environmental control.
3. Section 409.325, relating to public assistance fraud.
4. Section 409.920, relating to Medicaid provider fraud.
5. Sections 440.105 or 440.106, relating to workers' compensation.
6. Chapter 517, relating to sale of securities and investor protection.
7. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
8. Chapter 550, relating to jai alai frontons.
9. Chapter 552, relating to the manufacture, distribution, and use of explosives.
10. Chapter 562, relating to beverage law enforcement.
11. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
12. Chapter 687, relating to interest and usurious practices.
13. Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
14. Chapter 782, relating to homicide.
15. Chapter 784, relating to assault and battery.
16. Chapter 787, relating to kidnapping.
17. Chapter 790, relating to weapons and firearms.
18. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.
19. Chapter 806, relating to arson.
20. Chapter 812, relating to theft, robbery, and related crimes.
21. Chapter 815, relating to computer-related crimes.

22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Chapter 896, relating to offenses related to financial transactions.

34. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

35. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(Renumber subsequent sections.)

Amendment 56 (with Title Amendment)—On page 293, between lines 20 and 21, insert:

Section 94. Procedure for resolving maximum medical improvement or permanent impairment disputes.—

(1) A dispute as to the date of maximum medical improvement or degree of permanent impairment which is not subject to dispute resolution according to rules promulgated pursuant to s. 440.134 shall be resolved according to the procedure set out in this subsection.

(2) Disputes shall be resolved under this section when:

(a) A carrier that is entitled to obtain a determination of an employee's date of maximum medical improvement or permanent impairment has done so;

(b) The independent medical examiner's opinion on the date of the employee's maximum medical improvement and degree or permanent impairment differs from the opinion of the employee's treating physician on either of those issues, or from the opinion of the expert medical advisor appointed by the division on the degree of permanent impairment; or

(c) The carrier denies any portion of an employee's claim petition for benefits due to disputed maximum medical improvement or permanent impairment issues.

(3) Only opinions of the employee's treating physician, a division medical advisor, or an independent medical examiner are admissible in proceedings before a judge of compensation claims to resolve maximum medical improvement or impairment disputes.

(4) The judge of compensation claims shall first resolve any dispute concerning the date on which the employee reached maximum medical improvement. The judge shall then determine the degree of the employee's permanent impairment, which shall be either the highest or lowest estimate of permanent impairment which is in evidence before the judge of compensation claims.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 18, line 3, after "provisions;" insert: providing a procedure for resolving maximum medical improvement or permanent impairment disputes;

Senator Dantzler moved the following amendment which was adopted:

Amendment 57—On page 25, between lines 7 and 8, insert:

(32) "Arising out of" pertains to occupational causation. An accidental injury or death arises out of employment where work performed in the course and scope of employment is the major contributing cause of the injury or death.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 57**.

Senator Williams moved the following amendments which were adopted:

Amendment 58—On page 59, strike lines 2 and 3, and insert: misleading statement or representation, or to knowingly omit or conceal material information, whether written or oral, required by s. 440.381, or s. 440.185, for the purpose of obtaining

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 58**.

Amendment 59—On page 59, strike lines 7 and 8, and insert:

(g) To knowingly misrepresent or conceal payroll, classification of workers, or information regarding an employer's loss history which would be material to the computation and application of an experience rating modification factor for the purpose of avoiding or

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 59**.

Amendment 60—On page 110, line 23, through page 111, line 5, strike all of said lines and insert:

(b) ~~Only a catastrophic injury as defined in s. 440.13(1)(d) 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, 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 engaging in, gainful employment, and the burden shall be upon the employee to establish that he is not able uninterruptedly to do even light work available within a 100 mile radius of the injured employee's residence due to physical limitation.~~

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 60**.

Senator Silver moved the following amendment which was adopted:

Amendment 61—On page 73, line 5, after "the Florida Medical Association," insert: the Florida Osteopathic Medical Association,

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 61**.

Senator Williams moved the following amendment which was adopted:

Amendment 62—On page 74, line 26, after "interest" insert: except as provided in s. 455.236

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 62**.

Senator Kiser moved the following amendment which was adopted:

Amendment 63—On page 87, strike lines 4 and 5.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 63**.

Senator Williams moved the following amendment which was adopted:

Amendment 64—On page 82, line 24, strike "day" and insert: hour

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 64**.

Senator Williams moved the following amendments which failed:

Amendment 65—On page 75, between lines 7 and 8, insert:

(j) Notwithstanding anything in this chapter to the contrary, a sick or injured employee is, at all times, entitled to free, full, and absolute choice in the selection of the pharmacy or pharmacist dispensing and filling prescriptions for medicines required under this chapter. It is expressly forbidden for the department, an employer, or a carrier, or any agent or representative of the department, an employer, or a carrier, to select the pharmacy or the pharmacist that is used or otherwise to interfere in the selection by the sick or injured employee of a pharmacy or pharmacist.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 65**.

Amendment 66—On page 237, line 27, after the period (.) insert: *This section does not apply to any claim for reimbursement from the Special Disability Trust Fund filed after January 1, 1994. Effective July 1, 1994, the Florida Casualty Insurance Risk Management Trust Fund created by part II of chapter 284 is not eligible for any future recoveries and may not be required to pay any assessments under this section. The obligation of the Florida Casualty Insurance Risk Management Trust Fund to pay assessments for fiscal year 1993-1994 under s. 440.49(2)(h)2. is limited to the total amount recovered by the Florida Casualty Insurance Risk Management Trust Fund from the Special Disability Trust Fund for fiscal year 1993-1994.*

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 66**.

SENATOR CHILDERS PRESIDING

Senator Jennings moved the following amendments which were adopted:

Amendment 67 (with Title Amendment)—On page 262, between lines 2 and 3, insert:

Section 70. Paragraph (b) of subsection (4) of section 489.115, Florida Statutes, 1992 Supplement, as amended by section 10 of chapter 93-166, Laws of Florida, is amended to read:

489.115 Certification and registration; endorsement; renewals; continuing education.—

(4)

(b) Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. *The board shall establish by rule that a portion of the required 14 hours must deal with the subject of workers' compensation and workplace safety.* The board shall by rule establish criteria for the approval of continuing education courses and providers and may by rule establish criteria for accepting alternative non-classroom continuing education on an hour-for-hour basis.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 13, line 29, following the second semicolon (;), insert: amending s. 489.115, F.S.; prescribing for contractors' continuing education curricula to contain information on workers' compensation and workplace safety;

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 67**.

Amendment 68—On page 286, line 29, strike "2" and insert: 1

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 68**.

Amendment 69—On page 287, line 8, following the period (.) insert: Until January 1, 1998, self-insurance funds shall receive a credit for any assessments paid to the association pursuant to this act against the assessment paid to the division pursuant to s. 440.51.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 69**.

Senator Williams moved the following amendment which failed:

Amendment 70 (with Title Amendment)—On page 237, line 18, after "dates" insert: *and date of termination*

On page 237, line 27, after the period (.) insert: *Effective July 1, 1994, the Florida Casualty Insurance Risk Management Trust Fund created by Chapter 284, Part II, shall not be eligible for any future recoveries and shall not be required to pay any assessments under the provisions of this subsection. The obligation of the Florida Casualty Insurance Risk Management Trust Fund to pay assessments for fiscal year 1993/94 under s. 440.49(2)(h)2. shall be limited to the total amount recovered by the Florida Casualty Insurance Risk Management Trust Fund from the Special Disability Trust Fund for the fiscal year 1993/94.*

And the title is amended as follows:

On page 10, line 24, after the semicolon (;) insert: *limiting the payment of assessments by the Florida Casualty Insurance Risk Management Fund:*

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 70**.

Senator Dantzler moved the following amendment:

Amendment 71—On page 205, through page 216, strike entire section and insert:

Section 59. Section 440.45 Florida Statutes, is amended to read:

(Substantial rewording of section. See 440.45, F.S., for present text.)

440.45 Office of Judges of Compensation Claims.—

(1) There is hereby created the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security. The Office of the Judges of Compensation claims shall be headed by a Chief Judge who shall serve at the pleasure of the Governor and Cabinet. The Chief Judge shall be appointed by the Governor and confirmed by the Cabinet from a list of two names submitted by each of the District Court Judicial Nominating Commissions created by Article V, Section II of the Florida Constitution and section 43.29, F.S. The Office shall be a separate budget entity and the Chief Judge shall be its agency head for all purposes. The Department of Labor and Employment Security shall provide administrative support and service to the Office to the extent requested by the Chief Judge but shall not direct, supervise or control the Office of the Judges of Compensation Claims in any manner, including but not limited to personnel, purchasing, budgetary matters or property transactions. The operating budget of the Office of the Judges of Compensation claims shall be paid out of the Workers' Compensation Administrative Trust Fund established in s. 440.50.

(2) The Office of the Judges of Compensation Claims shall employ full time administrative judges of compensation claims to conduct proceedings as required by this chapter or other law. No person may be employed by the office as a full time judge of compensation claims unless he or she has been a member of the Florida Bar in good standing for the preceding five years and is knowledgeable in the law of workers compensation. Judges sitting at the effective date of this law shall be entitled to

remain as sitting judges pursuant to Florida Statutes Section 440.45 (1991) but upon conclusion of the remainder of their four year terms shall revert to career service personnel status in accordance with this section.

(3) The Chief Judge shall appoint from among the full time judges of the office two or more judges to rotate as docketing judges. Docketing judges shall review all claims for benefits for consistency with the requirements of this chapter and the rules of procedure, including but not limited to specificity requirements, and shall dismiss any claim that fails to comport with such rules and requirements. The docketing judge shall not dismiss any claim with prejudice without offering the parties an opportunity to appear and present argument. The Chief Judge may as he or she deems appropriate expand the duties of the docketing judges to include resolution without hearing of other types of procedural and substantive matters, including resolution of fee disputes.

(4) The Chief Judge shall have the discretion to require mediation and to designate qualified persons to act as mediators in any dispute pending before the Judges of Compensation Claims and the Division. The Chief Judge shall coordinate with the Director of the Division of Workers Compensation to establish a mandatory mediation program to facilitate early and efficient resolution of disputes arising under this chapter and to establish training and continuing education for new and sitting judges.

(5) The Office of the Judges of Compensation Claims shall promulgate rules to effect the purposes of this section. Such rules shall include procedural rules applicable to workers' compensation claim resolution and uniform criteria for measuring the performance of the Office, including but not limited to the number of cases assigned and disposed, the age of pending and disposed cases, timeliness of decision making, extraordinary fee awards and other performance indicators. The Workers' Compensation Rules of Procedure approved by the Supreme Court shall apply until the rules promulgated by the Office of the Judges of Compensation Claims pursuant to this section become effective.

(6) Not later than December 1 of each year, the Office of the Judges of Compensation Claims and the Division of Workers' Compensation shall jointly issue a written report to Governor, House and Senate summarizing the amount, cost and outcome of all litigation resolved in the prior year, summarizing the disposition of applications and motions for mediation conferences and recommending changes or improvements to the dispute resolution elements of the workers' compensation law and regulations.

Senator Kirkpatrick moved the following substitute amendment which was adopted:

Amendment 72—On page 205, through page 216, strike entire section and insert:

Section __. Section 440.45, Florida Statutes, is amended to read:

(Substantial rewording of section. See 440.45, F.S., for present text.)

440.45 Office of Judges of Compensation Claims.—

(1) There is hereby created the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security. The Office of the Judges of Compensation Claims shall be headed by a Chief Judge who shall serve at the pleasure of the Governor and Cabinet. The Chief Judge shall be appointed by the Governor and confirmed by the Cabinet from a list of two names submitted by each of the District Court Judicial Nominating Commissions created by Article V, Section II of the Florida Constitution and s. 43.29. The office shall be a separate budget entity and the Chief Judge shall be its agency head for all purposes. The Department of Labor and Employment Security shall provide administrative support and service to the office to the extent requested by the Chief Judge but shall not direct, supervise or control the Office of the Judges of Compensation Claims in any manner, including but not limited to personnel, purchasing, budgetary matters or property transactions. The operating budget of the Office of the Judges of Compensation Claims shall be paid out of the Workers' Compensation Administrative Trust Fund established in s. 440.50.

(2)(a) The Governor shall appoint full time judges of compensation claims to conduct proceedings as required by this chapter or other law. No person may be appointed as a judge of compensation claims unless he or she has been a member of The Florida Bar in good standing for the preceding five years and is knowledgeable in the law of workers' compensation. No judge of compensation claims shall engage in the private practice of law during a term of office.

(b) The Governor shall initially appoint a judge of compensation claims from a list of three persons nominated by a statewide nominating commission. The statewide nominating commission shall be composed of the following: five members, one of each who resides in each of the territorial jurisdictions of the district courts of appeal, appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are engaged in the practice of law; five electors, one of each who resides in the territorial jurisdictions of the district courts of appeal, appointed by the Governor; and five electors, one of each who resides in each of the territorial jurisdictions of the district courts of appeal, selected and appointed by a majority vote of the other ten members of the commission. No attorney who appears before any judge of compensation claims more than four times a year is eligible to serve on the statewide nominating commission. The meetings and determinations of the nominating commission as to the judges of compensation claims shall be open to the general public.

(c) Each judge of compensation 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 a judge's term of office, the statewide nominating commission shall review the judge's conduct. The commission shall report its findings to the Governor no later than 6 months prior to the expiration of the judge's term of office. The report of the commission shall include a list of 3 candidates for appointment. The candidates shall include the judge whose term is expiring, if that judge desires reappointment and the judge's performance is satisfactory upon review by the commission. If a vacancy occurs during a judge's unexpired term, the commission shall issue a report to the Governor which includes a list of 3 candidates for appointment. The Governor shall review the commission's report, and may select one of the listed candidates. If no candidate is selected, the Governor shall so inform the commission, which shall within 2 months issue a report to the Governor which includes a list of 3 different candidates for appointment.

(3) The Chief Judge shall select from among the full time judges of the office two or more judges to rotate as docketing judges. Docketing judges shall review all claims for benefits for consistency with the requirements of this chapter and the rules of procedure, including but not limited to specificity requirements, and shall dismiss any claim that fails to comport with such rules and requirements. The docketing judge shall not dismiss any claim with prejudice without offering the parties an opportunity to appear and present argument. The Chief Judge may as he or she deems appropriate expand the duties of the docketing judges to include resolution without hearing of other types of procedural and substantive matters, including resolution of fee disputes.

(4) The Chief Judge shall have the discretion to require mediation and to designate qualified persons to act as mediators in any dispute pending before the Judges of Compensation Claims and the Division. The Chief Judge shall coordinate with the Director of the Division of Workers Compensation to establish a mandatory mediation program to facilitate early and efficient resolution of disputes arising under this chapter and to establish training and continuing education for new and sitting judges.

(5) The Office of the Judges of Compensation Claims shall promulgate rules to effect the purposes of this section. Such rules shall include procedural rules applicable to workers' compensation claim resolution and uniform criteria for measuring the performance of the Office, including but not limited to the number of cases assigned and disposed, the age of pending and disposed cases, timeliness of decision making, extraordinary fee awards and other performance indicators. The Workers' Compensation Rules of Procedure approved by the Supreme Court shall apply until the rules promulgated by the Office of the Judges of Compensation Claims pursuant to this section become effective.

(6) Not later than December 1 of each year, the Office of the Judges of Compensation Claims and the Division of Workers' Compensation shall jointly issue a written report to the Governor, House of Representatives and Senate summarizing the amount, cost and outcome of all litigation resolved in the prior year, summarizing the disposition of applications and motions for mediation conferences and recommending changes or improvements to the dispute resolution elements of the workers' compensation law and regulations.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 72**.

Senator Dantzer moved the following amendments which were adopted:

Amendment 73—On page 28, strike lines 6-13, and insert:

440.09 *Compensable Injuries*.—

(1) *The employer shall pay compensation or furnish benefits required by this chapter where the employee suffers an accidental injury or death arising out of work performed in the course and the scope of employment. The injury, its occupational cause, and any resulting manifestations or disability shall be established to a reasonable degree of medical certainty and by objective medical findings. Mental or nervous injuries occurring as a manifestation of an injury compensable under this section shall be demonstrated by clear and convincing evidence. Compensation shall be payable under this chapter in respect of disability or death of an employee if the disability or death results from an injury arising out of and in the course of employment.*

Amendment 74—On page 30, line 8, insert:

(4) *An employee shall not be entitled to compensation or benefits under this chapter if any administrative hearing officer, court, or jury convened in this state determines that the employee has knowingly or intentionally engaged in any of the acts described in s. 440.105(2) for the purpose of securing workers' compensation benefits.*

(Renumber subsequent subsections.)

Senator Jennings moved the following amendment which was adopted:

Amendment 75 (with Title Amendment)—On page 293, between lines 18 and 19, insert:

Section 93. Subsection (6) is added to section 628.161, Florida Statutes, to read:

628.161 *Initial qualifications; mutuals*.—

(6) *A self-insurer's fund organized under s. 440.57 and holding a certificate of authority as a self-insurer's fund on December 31, 1993, may become a mutual insurer under part I of chapter 628, pursuant to a plan of reorganization approved by the department. A plan of reorganization must be approved by the department if:*

(a) *The self-insurer's fund has sufficient financial resources to satisfy all of its obligations under all policies and coverages afforded by the fund before the reorganization and has sufficient financial resources to satisfy all of its other liabilities;*

(b) *The self-insurer's fund has a minimum of \$5 million of surplus;*

(c) *The self-insurer's fund submits a plan that demonstrates its ability to satisfy the requirements of chapter 628 pertaining to mutual insurers on an ongoing basis; and*

(d) *The mutual insurer resulting from the reorganization of the self-insurer's fund retains ownership of all of the assets of the self-insurer's fund, retains all of the liabilities of the self-insurer's fund, and agrees to hold all fund members harmless from any assessment for liabilities of the self-insurer's fund before the date of reorganization.*

Upon approval of the plan by the department, any contingent liability of the members or former members of the self-insurer's fund for assessment for losses of the self-insurer's fund is considered satisfied, and all liability for any such contingent assessment is extinguished as of the date the self-insurer's fund becomes an authorized mutual insurer and retains all of the assets and liabilities of the self-insurer's fund.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 17, line 26, after the semicolon (;) insert: amending s. 628.161, F.S.; providing that certain self-insurer's funds may become mutual insurers, by meeting specified requirements and submitting a plan of reorganization to the Department of Insurance for its approval; providing that certain contingent liability of the self insurer's fund members or former members is extinguished, as specified;

MOTION

On motion by Senator Johnson, the rules were waived to allow the following amendment to be considered:

Senator Johnson moved the following amendment which was adopted:

Amendment 76 (with Title Amendment)—On page 60, between lines 23 and 24, insert:

Section 12. Section 440.1051, Florida Statutes, is created to read:

440.1051 Fraud reports; civil immunity; criminal penalties.—

(1) The Bureau of Workers' Compensation Insurance Fraud of the Division of Insurance Fraud of the Department of Insurance shall establish a toll-free telephone number to receive reports of workers' compensation fraud committed by an employee, employer, insurance provider, physician, attorney, or other person.

(2) Any person who reports workers' compensation fraud to the division under subsection (1) is immune from civil liability for doing so, and the person or entity alleged to have committed the fraud may not retaliate against him for providing such report, unless the person making the report knows it to be false.

(3) A person who calls and, knowingly and falsely, reports workers' compensation fraud or who, in violation of subsection (2) retaliates against a person for making such report, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or both.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 25, after "penalties;" insert: creating s. 440.0151, F.S.; requiring that the Bureau of Workers' Compensation Insurance Fraud of the Division of Insurance Fraud of the Department of Insurance establish a toll-free telephone number to receive reports of workers' compensation fraud; providing civil immunity for persons who make such a report; providing criminal penalties;

Senator Scott moved the following amendments which were adopted:

Amendment 77—On page 92, line 22, through page 93, line 6, strike all of said lines and insert:

(4) **CERTIFICATE OF AUTHORITY REQUIRED.**—In order to own, operate, or control a WCMCO, a person must have a valid certificate of authority issued by the department. A person, entity, or organization may not hold itself out or advertise to offer managed care or managed-care services to injured employees unless it is licensed as a WCMCO.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 77**.

Amendment 78—On page 74, strike lines 22-29, and insert:

(h) The provisions of s. 455.236 are applicable to referrals among health care providers, as defined in subsection (1), treating injured workers.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 78**.

Senator Scott moved the following amendment:

Amendment 79 (with Title Amendment)—On page 89, line 20, through page 108, line 7, strike all of said lines and insert:

Section 16. Section 440.134, Florida Statutes, is created to read:

440.134 Workers' compensation managed-care arrangements.—

(1) As used in this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Complaint" means any dissatisfaction expressed by an injured worker concerning an insurer's workers' compensation managed-care arrangement.

(c) "Emergency care" means medical services provided after the sudden or unexpected onset of a medical condition manifesting itself by acute symptoms, including injury caused by an accident, which are severe enough that the lack of immediate medical attention could reasonably be expected to result in any of the following:

1. The patient's life or health would be placed in serious jeopardy.
2. Vital bodily functions would be seriously impaired.
3. There would be serious and permanent dysfunction of a bodily organ or part.

(d) "Grievance" means dissatisfaction with the medical care provided by an insurer's workers' compensation managed-care arrangement health care providers, expressed in writing by an injured worker.

(e) "Insurer" means an insurance carrier, self-insurance fund, or individually self-insured employer.

(f) "Service area" means the agency-approved geographic area within which an insurer is authorized to offer a workers' compensation managed-care arrangement.

(g) "Workers' compensation managed-care arrangement" means an arrangement under which a provider of health care, a health care facility, a group of providers of health care, a group of providers of health care and health care facilities, an insurer that has an exclusive provider organization approved under s. 627.6472 or a Health Maintenance Organization licensed under Part I of Chapter 641 has entered into a written agreement directly or indirectly with an insurer to provide and to manage appropriate remedial treatment, care, and attendance to injured workers in accordance with this chapter.

(h) "Capitated contract" means a contract in which an insurer pays directly or indirectly a fixed amount to a health care provider in exchange for the future rendering of medical services for covered expenses.

(i) "Medical care coordinator" means a primary care provider within a provider network who is responsible for managing the medical care of an injured worker including determining other health care providers and health care facilities to which the injured employee will be referred for evaluation or treatment.

(j) "Provider network" means a closed panel of health care providers and health care facilities that have contracted directly or indirectly with an insurer to provide appropriate remedial treatment, care, and attendance to injured workers in accordance with this chapter.

(k) "Primary care provider" means, except in the case of emergency treatment, the initial treating physician and, when appropriate, continuing treating physician, who may be a family practitioner, general practitioner, or internist physician licensed under chapter 458; a family practitioner, general practitioner, or internist osteopath licensed under chapter 459; or a chiropractor licensed under chapter 460.

(2) The agency shall, beginning April 1, 1994, authorize an insurer to offer or use a workers' compensation managed-care arrangement after the insurer files a completed application accompanied by a \$1,000 application fee, and upon the agency's being satisfied that the applicant has the ability to provide quality of care consistent with the prevailing professional standards of care and the insurer and its workers' compensation managed-care arrangement otherwise meet the requirements of this section. Effective July 1, 1994, an insurer may not offer or use a managed-care arrangement without such authorization. The authorization, unless sooner suspended or revoked, automatically expires 2 years after the date of issuance unless renewed by the insurer. The authorization must be renewed upon application for renewal and payment of a renewal fee of \$1,000, if the insurer is in compliance with this section and any rules adopted under this section. An application for renewal of the authorization must be made 90 days before the authorization is scheduled to expire, on forms provided by the agency. The renewal application does not require the resubmission of any documents previously filed with the agency if the documents have remained valid and unchanged since their original filing.

(3) An insurer may not directly or indirectly enter into a capitated contract with any person who is not a health care provider, a health care facility, a health maintenance organization licensed under part I of chapter 641, or a health insurer that has an exclusive provider organization approved under s. 627.6472. A capitated contract must provide that the

capitated amount for rendering covered medical services must be paid directly to the person who has contracted with the insurer. Such contracts excluding the capitated amount must be filed with the agency for approval prior to use.

(4) An insurer may not offer or use a workers' compensation managed-care arrangement in this state until its managed-care plan of operation has been approved by the agency and the insurer is authorized by the agency to offer or use a workers' compensation managed-care arrangement.

(5) An insurer must file a proposed managed-care plan of operation with the agency in a format prescribed by the agency. The plan of operation must contain evidence that all covered services are available and accessible, including a demonstration that:

(a) The services can be provided with reasonable promptness with respect to geographic location, house of operation, and after-hour care. The hours of operation and availability of after-hour care must reflect the usual practice in the local area. Geographic availability must reflect the usual travel times within the community.

(b) The number of providers in the workers' compensation managed-care arrangement service area is sufficient, with respect to all covered services likely to be required by currently served workers and workers who are expected to be served by the arrangement. The provisions of this paragraph notwithstanding, the agency shall approve a workers' compensation managed-care arrangement that contains a number of non-primary care providers which would otherwise be considered insufficient, if the insurer provides adequate evidence that contracting with additional providers would not be feasible or necessary.

(c) There are written agreements with providers describing specific responsibilities.

(d) Emergency care is available 24 hours a day and 7 days a week.

(e) With respect to covered services, there are written agreements with providers which prohibit the providers from billing or otherwise seeking reimbursement from or recourse against any injured worker.

(6) The proposed managed-care plan of operation must include:

(a) A statement or map providing a clear description of the service area.

(b) A description of the grievance procedure to be used.

(c) A description of the quality assurance program which assures that the health care services provided to workers will be rendered under reasonable standards of quality of care consistent with the prevailing standards of medical practice in the medical community. The program must include, but need not be limited to:

1. A written statement of goals and objectives that stresses health and return-to-work outcomes as the principal criteria for the evaluation of the quality of care rendered to injured workers;

2. A written statement describing how state-of-the-art methodology has been incorporated into an ongoing system for monitoring care which is individual-case oriented and which, when implemented, can provide interpretation and analysis of patterns of care rendered to individual patients by individual providers;

3. Written procedures for taking appropriate remedial action if, as determined under the quality assurance program, inappropriate or substandard services have been provided or services that should have been furnished have not been provided;

4. A written plan, which includes ongoing review, for providing review of physicians and other licensed medical providers.

5. Appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service.

6. Adequate methods of peer review and utilization review. The utilization review process must include a health care facilities certification mechanism, including, but not limited to, all elective admissions and nonemergency surgeries.

7. Availability of a process for aggressive medical care coordination, as well as a program involving cooperative efforts by the workers, the employer, and the workers' compensation managed-care arrangement to promote early return to work for injured workers.

8. A process allowing employees to obtain one second medical opinion in the same specialty and within the provider network during the course of treatment for a work-related injury.

9. A provision for the selection of a primary care provider by the employee from among primary care providers in the provider network.

(d) The written information proposed to be used by the insurer to comply with subsection (8).

(e) Written procedures to provide the insurer with timely medical records and information including, but not limited to, work status, work restrictions, date of maximum medical improvement, permanent impairment ratings, and other information as required.

(f) Evidence that there is sufficient administrative capacity and that appropriate health care providers and administrative staff of the insurer's workers' compensation managed-care arrangement have received training and education on the provisions of this chapter and the administrative rules that govern the provision of remedial treatment, care, and attendance of injured workers.

(g) Written procedures and methods to prevent inappropriate or excessive treatment.

(h) Written procedures and methods for the management of an injured worker's medical care by a medical care coordinator, including:

1. The mechanism for assuring that covered employees receive all initial covered services from a primary care provider participating in the provider network, except for emergency care.

2. The mechanism for assuring that all continuing covered services be received from the same primary care provider participating in the provider network that provided the initial covered services, except when services from another provider are authorized by the medical care coordinator under paragraph 4.

3. The policies and procedures for allowing an employee one change to another provider within the same specialty and provider network as the authorized treating physician during the course of treatment for a work-related injury, if a request is made to the medical care coordinator by the employee. The policies and procedures must require that special provision be made for more than one such referral through the arrangement's grievance procedures.

4. The process for assuring that all referrals authorized by a medical care coordinator are made to the participating network providers, unless medically necessary treatment, care, and attendance is not available and accessible to the injured worker in the provider network.

(i) A description of the use of workers' compensation practice parameters for health care services when adopted by the agency.

(7) An insurer must file any proposed changes to the plan of operation, except for changes to the list of providers, with the agency before implementing the changes. The changes are considered approved by the agency after 45 days unless specifically disapproved.

(8) An updated list of providers must be filed with the agency at least semiannually.

(9) An insurer must make full and fair disclosure in writing of the provisions, restrictions, and limitations of the workers' compensation managed-care arrangement to affected workers, including at least the following:

(a) A description, including address and phone number, of the providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(b) A description of coverage for emergency and urgently needed care provided within and outside the service area.

(c) A description of limitations on referrals.

(d) A description of the grievance procedure.

(10)(a) A workers' compensation managed-care arrangement must have and use procedures for hearing complaints and resolving written grievances from injured workers. The procedures must be aimed at mutual agreement for settlement and may include arbitration procedures. Procedures provided for in this subsection are in addition to other procedures contained in this chapter.

(b) The grievance procedure must be described in writing and provided to the affected workers.

(c) At the time the workers' compensation managed-care arrangement is implemented, the insurer must provide detailed information to workers describing how a grievance may be registered with the insurer.

(d) Grievances must be considered in a timely manner and must be transmitted to appropriate decision makers who have the authority to fully investigate the issue and take corrective action.

(e) If a grievance is found to be valid, corrective action must be taken promptly.

(f) All concerned parties must be notified about the results of a grievance.

(g) The insurer must report annually, no later than March 31 of each year, to the agency regarding its grievance procedure activities for the previous calendar year. The report must be in a format prescribed by the agency and must contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of the grievances.

(11) When a carrier enters into a managed-care arrangement under this section, the employees who are covered by the arrangement are considered to have received all the benefits to which they are entitled under s. 440.13(2)(a) and (b). In addition, the employer is considered to have complied completely with the requirements of those provisions. This section exclusively governs managed-care arrangements unless specifically stated otherwise in this section.

(12) The agency may suspend the authority of an insurer to offer a workers' compensation managed-care arrangement or may order compliance within 60 days, if it finds that any of the following conditions exist:

(a) The insurer is in substantial violation of its contracts.

(b) the insurer is unable to fulfill its obligations under outstanding contracts entered into with its employers.

(c) The insurer knowingly uses a provider who is furnishing or has furnished health care services and who does not have a valid license or other authority to practice or furnish health care services in this state.

(d) The insurer no longer meets the requirements for the authorization as originally issued or subsequently amended.

(e) The insurer has violated any lawful rule or order of the agency or any provision of this section.

(13) Revocation of an insurer's authorization shall be for a period of 2 years. After 2 years, the insurer may apply for a new authorization by complying with all application requirements that are applicable to first-time applicants.

(14) Suspension of an insurer's authority to offer a workers' compensation managed-care arrangement shall be for such period, not to exceed 1 year, as is fixed by the agency. The agency shall, in its order suspending the authority of an insurer to offer workers' compensation managed care, specify the period during which the suspension is to be in effect and the conditions, if any, that must be met by the insurer before its authority is reinstated. The order or suspension is subject to rescission or modification by further order of the agency before the expiration of the suspension period. Reinstatement may not be made unless requested by the insurer; however, the agency may not grant reinstatement if it finds that the circumstances for which the suspension occurred still exist or are likely to recur.

(15) Upon expiration of the suspension period, the insurer's authorization is automatically reinstated unless the agency finds that the causes of the suspension have not been rectified or that the insurer is otherwise not in compliance with this part. If not so automatically reinstated, the authorization is considered to have expired as of the end of the suspension period.

(16) If the agency finds that one or more grounds exist for the revocation or suspension of an authorization issued under this section, the agency may, in lieu of the revocation or suspension, impose a fine upon the insurer. With respect to any nonwillful violation, the fine may not exceed \$2,500 per violation and may not exceed an aggregate amount of \$10,000 for all nonwillful violations arising out of the same action. With respect to any knowing and willful violation of a lawful order or rule of

the agency or a provision of this section, the fine may not exceed \$20,000 for each such violation and may not exceed an aggregate amount of \$100,000 for all knowing and willful violations arising out of the same action.

(17) The agency shall immediately notify the Department of Insurance and the Department of Labor and Employment Security when it issues an administrative complaint or an order or otherwise initiates legal proceedings that result in, or may result in, suspension or revocation of an insurer's authorization.

And the title is amended as follows:

In title, on page 4, line 8, through page 5, line 27, strike all of said lines and insert: 440.134, F.S., relating to workers' compensation managed-care arrangements; providing definitions; providing requirements relating to insurers' providing such arrangements, including authorization by the Agency for Health Care Administration and the payment of an application fee; providing requirements for capitated contracts; requiring the filing of a proposed managed-care plan of operation and specifying the contents of the plan; requiring changes to the plan to be filed with the agency before the changes are implemented; requiring annual filing of an up-to-date list of providers; requiring disclosure as specified; providing for hearing complaints and resolving grievances; providing for the agency to suspend an insurer's authority to offer a managed-care arrangement; providing for suspension of that authority; providing for reinstatement after a period of suspension; providing for a fine in lieu of suspension or revocation; requiring the agency to give notice to the Department of Insurance and to the Department of Labor and Employment Security; of certain actions that could result in suspension or revocation of an insurer's authorization; amending s. 440.135, F.S.; amending

Senator Dudley moved the following amendment to **Amendment 79** which was adopted:

Amendment 79A—On page 3, line 14, strike the period and insert: ; or a dentist licensed under chapter 466.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 79A**.

Senator Turner moved the following amendment to **Amendment 79** which was adopted:

Amendment 79B—On page 3, strike line 14, and insert: chapter 459; a chiropractor licensed under chapter 460; or a podiatrist licensed under chapter 461.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 79B**.

MOTION

On motion by Senator Scott, further consideration of **Amendment 79** as amended was deferred.

THE PRESIDENT PRESIDING

Senator Dantzer moved the following amendments which were adopted:

Amendment 80—On page 174, line 17, insert:

Section 47. Section 440.28, Florida Statutes, is amended to read:

440.28 Modification of orders.—Upon a judge of compensation claims' 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 judge of compensation claims may, at any time prior to 2 years after the date of the last payment of compensation pursuant to the any compensation order the party seeks to modify, 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 or 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 methods as may be determined by the judge of compensation claims.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 80**.

Amendment 81—On page 250, line 3, insert:

Section 66. Section 440.592, Florida Statutes, is created to read:

440.592 Information maintained by the division; confidentiality and release.—Identifying information contained in records and reports maintained by the department relative to any injury, claim, or to the regulation of insurance entities is confidential and exempt from the provisions of s. 119.07(1). However, such information may be released:

(1) To the claimant, employer, or carrier submitting such information or their legal representatives;

(2) If such information has been determined by the division to be essential for an acceptable research, state, or federal purpose and the entity who seeks release of such information has verified that the information will not be used for any purpose other than the approved research, state, or federal purpose and will not identify any individuals by name or by social security number; or

(3) Upon filing of a complaint or petition and a determination following an in-camera proceeding by a hearing officer, judge of compensation claims, agency head exercising quasi-judicial authority, or a judge of a court of competent jurisdiction that such information may be released.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 67. Section 440.593, Florida Statutes, is created to read:

440.593 Data collection by division; methods.

(1) The division may collect any data, information, or forms required by this chapter by the use of a statistically valid sample of the data, information, or form, or by collecting summarized or compiled, non-case-specific data, pursuant to division rule.

(2) The division may require submission of data or information mandated by this chapter by compatible electronic format.

VOTE RECORDED

Senator Holzendorf requested that she be recorded as voting nay on **Amendment 81**.

Senator Dudley moved the following amendment:

Amendment 82—On page 25, line 23, through page 27, line 20, strike all of said lines and insert:

~~(3) Every sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from the provisions of this chapter or who, after electing such exemption, revokes that exemption, shall mail a written notice to such effect to the division on a form prescribed by the division. The notice of election to be exempt from the provisions of this chapter must be notarized and under oath. The form must list the name, federal tax identification number, social security number, and all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption. The form must identify each sole proprietorship, partnership, or corporation that employs the person seeking the exemption and must list the social security number or federal tax identification number of each such employer. In addition, the exemption form must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the exemption does not exceed exemption limits for officers and partnerships, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon receipt of the notice of the election to be exempt and a determination that the notice meets the requirements of this subsection, the division~~

~~shall issue a certification of the election to the sole proprietor, partner, or officer. The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election shall be sent to each workers' compensation carrier identified in the request for exemption. The certification of the election is valid for 2 years or until the sole proprietor, partner, or officer revokes his election, whichever occurs first. Upon filing a notice of revocation of election, if the sole proprietor, partner, or officer is a subcontractor, he shall notify his contractor.~~

~~(3)(4) A No notice given under pursuant to subsection (1), subsection (2), or subsection (3) is not effective until 30 days after the date it is mailed to the division in Tallahassee. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the division in Tallahassee.~~

~~(4)(5) Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.~~

~~(5)(6) The division may assess a fee, not to exceed \$50, with each request for election or renewal of election under this section. The funds collected by the division shall be used to administer this section and to audit the businesses that pay the fee for compliance with any requirements of this chapter.~~

Senator Hargrett moved the following amendment to **Amendment 82** which failed:

Amendment 82A—On page 3, line 8, strike "chapter." and insert: chapter.

Section 3. The amendments to s. 440.05(3), (4), (5), and (6), Florida Statutes, by section 2 of this act shall not take effect until July 1, 1994.

(Renumber subsequent sections.)

RECONSIDERATION OF AMENDMENT

Senator Boczar moved that the Senate reconsider the vote by which **Amendment 82A** failed. The motion was adopted. The vote was

Yeas—35 Nays—3

Amendment 82A was adopted.

The question recurred on **Amendment 82** as amended which was adopted. The vote was

Yeas—22 Nays—18

Senator Dudley moved the following amendment:

Amendment 83—On page 19, line 13, strike all of said line and insert: engaged in the construction industry, no more than three

Senator Hargrett moved the following amendment to **Amendment 83** which was adopted:

Amendment 83A—On page 1, line 12, after the comma (,) insert: effective July 1, 1994,

Amendment 83 as amended was adopted.

Senator Dudley moved the following amendment which was adopted:

Amendment 84—On page 23, lines 9 through 15, strike all of said lines and insert:

5. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

Senator Wexler moved the following amendment which was adopted:

Amendment 85 (with Title Amendment)—On page 249, between lines 13 and 14, insert:

(6) *There is created within the Department of Labor and Employment Security a public counsel, who shall be appointed by and serve at the pleasure of the Governor, to represent the interests of the people of the state in disputes and proceedings arising under chapter 440. The public counsel shall be funded from moneys appropriated from the Workers' Compensation Administrative Trust Fund. The counsel must be appointed by July 1, 1994. The public counsel may:*

(a) *Employ attorneys and other support staff as are necessary to carry out the duties of the office;*

(b) *Initiate, participate in, or recommend the commencement of proceedings where the interests of the state or the people of the state are substantially affected by issues arising under chapter 440, whether or not such actions are consistent with actions recommended by the various agencies that regulate the workers' compensation system;*

(c) *Retain experts and other consultants, subpoena records, and use all forms of discovery available in civil actions generally;*

(d) *Prepare and issue reports and recommendations to the Governor and the various agencies vested with the responsibility to regulate and administer the workers' compensation system; and*

(e) *Appear before the various agencies and state and federal courts in connection with matters that impact the workers' compensation system.*

And the title is amended as follows:

In title, on page 11, line 15, following the semicolon (;) insert: creating a public counsel in the department;

RECONSIDERATION OF AMENDMENT

On motion by Senator Jennings, the Senate reconsidered the vote by which **Amendment 85** was adopted. **Amendment 85** was withdrawn.

Senator Wexler moved the following amendment which was adopted:

Amendment 86—On page 247, line 6, following "requirements" insert: ; public counsel

RECONSIDERATION OF AMENDMENT

On motion by Senator Jennings, the Senate reconsidered the vote by which **Amendment 86** was adopted. **Amendment 86** was withdrawn.

Senator Grant moved the following amendment which failed:

Amendment 87 (with Title Amendment)—On page 18, between lines 6 and 7, insert:

Section 1. Subsection (3) of section 20.171, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security.

(3) The following commissions are established within the Department of Labor and Employment Security:

(a) Public Employees Relations Commission.

(b) Unemployment Appeals Commission.

(c) Workers' Compensation Appellate Commission.

(5)(a) *There is created within the Department of Labor and Employment Security a Workers' Compensation Appellate Commission, hereinafter referred to as the "commission." The commission is vested with all authority, powers, duties, and responsibilities necessary to review orders of judges of compensation claims entered pursuant to chapter 440.*

(b)1. *The commission shall consist of a presiding judge and four other judges who shall be persons with substantial experience in workers' compensation law, in good standing of the bar of this State, and possessing the qualifications required by law for judges of the District Courts of Appeal.*

2. *Judges shall receive a salary equal to that paid to judges of the District Courts of Appeal.*

3. *Judges shall devote full time to the duties of their office and shall not hold any other public office or public employment. Judges shall not practice law, or be the partner or associate of any person in the practice of law, during their terms of office. Judges are subject to the Code of Judicial Conduct pursuant to s. 440.442, and to the jurisdiction of the Judicial Qualifications Committee. Judges may be removed during their terms of office by the Governor for cause.*

4. *Initially, the Supreme Court Judicial Nominating Commission shall submit to the Governor the names of fifteen candidates. From this list the Governor shall appoint two judges for terms of 4 years, two judges for terms of 3 years, and one judge for a term of 2 years. Thereafter, each judge shall be appointed for a term of 4 years.*

5. *Judges shall be appointed and retained, and vacancies due to unexpired terms shall be filled by the Supreme Court Judicial Nominating Commission. Prior to the expiration of a judge's term of office, the Supreme Court Judicial Nominating Commission shall review the judge's conduct. The Supreme Court Judicial Nominating Commission shall report its findings to the Governor no later than 6 months prior to the expiration of the judge's term of office. The report of the Supreme Court Judicial Nominating Commission to the Governor shall include a list of three candidates for appointment. The candidates shall include the judge whose term is expiring, if that judge desires reappointment and the judge's performance is satisfactory upon review by the Supreme Court Judicial Nominating Commission. If a vacancy occurs during a judge's unexpired term, the Supreme Court Judicial Nominating Commission shall issue a report to the Governor which includes a list of three candidates for appointment.*

(c)1. *A party shall commence an appeal by filing with the clerk of the commission a certified copy of a notice of appeal or petition, together with a filing fee of \$250. The state and its agencies, when appearing as appellant or petitioner, are exempt from this fee.*

2. *The commission may hold sessions and conduct hearings at any place within the state. A panel of three judges shall consider each case and the concurrence of two shall be necessary for a decision. Any judge may request an en banc hearing for review of a final order of a judge of compensation claims.*

3. *The commission shall review decisions by judges of compensation claims to ensure that there is substantial competent evidence to support findings of fact, and that there has been no misapplication of relevant law.*

4. *Practice and procedure before the commission shall be governed by rules promulgated by the commission in consultation with the Chief Judge of Compensation Claims.*

(d)1. *The presiding judge shall be selected by a majority of the judges. The presiding judge shall serve for a term of 2 years, and may serve successive terms.*

2. *The presiding judge shall exercise administrative supervision over the commission and over the judges and other officers of such courts.*

3. *With approval of the Governor, the presiding judge may appoint currently commissioned judges of compensation claims to serve as temporary associate commission judges. An appointment shall not cause an undue burden on the caseload in the judge's jurisdiction. Associate judges shall receive no additional pay except for expenses incurred in the performance of additional duties. The presiding judge's order appointing the associate judge shall be filed in the records of the commission.*

4. *The presiding judge may appoint an executive assistant to perform such duties as the presiding judge may direct.*

5. *The presiding judge may establish fees for copying, certifying, or furnishing opinions, records, papers, or other instruments, and for publications and subscriptions. Any charges for services listed in s. 28.24 shall be in the same amount as provided by that section. Fees shall be collected by the clerk and deposited in the Workers' Compensation Administrative Trust Fund.*

6. The presiding judge of the commission shall have the authority:

- a. To assign judges and associate judges to hear appeals from final orders of judges of compensation claims.
- b. To hire and assign clerks and staff.
- c. To regulate use of courtrooms.
- d. To supervise dockets and calendars.
- e. To do everything necessary to promote the prompt and efficient administration of justice in the courts over which he or she presides.

(e)1. The Workers' Compensation Appeals Commission shall be within the Department of Labor and Employment Security, but in the performance of its powers and duties under chapter 440 shall not be subject to control, supervision, or direction by the Department of Labor and Employment Security. The commission is not an agency for purposes of chapter 120.

2. The commission shall receive an annual appropriation from the Workers' Compensation Administrative Trust Fund created by s. 440.50. From this appropriation, the commission shall make all necessary expenditures, including expenditures for services and rent at the seat of government and elsewhere, law books, reference materials, periodicals, furniture, equipment, supplies, printing, and binding, and for personnel, including an assistant to the presiding judge, research assistants, law clerks, and clerical staff to assist the judges in performing their duties under this section, and clerical assistants and deputies to assist the commission clerk.

3. The commission shall have a seal for authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "State of Florida Workers' Compensation Appellate Commission—Seal." The seal shall be judicially noticed.

4. The commission shall maintain and keep open, during reasonable business hours, in the Capitol or some other suitable building in Leon County, an office of the commission clerk for the transaction of its business. All books, papers, records, files, and the seal of the commission shall be kept at this office.

5. The commission is expressly authorized to destroy its obsolete records.

6. Judges shall be reimbursed for travel expenses as provided in s. 112.061.

(f)1. The commission shall appoint a clerk who shall hold office at the pleasure of the commission. Before entering upon the discharge of his or her duties, the clerk shall give bond in the sum of \$5,000, payable to the Governor or successors in office, to be approved by a majority of the members of the commission, and conditioned upon the faithful discharge of the duties of office. The bond shall be filed in the office of the Secretary of State.

2. The clerk shall collect all filing fees, and any other fees which the commission in its discretion may charge. Each month the clerk shall prepare duplicate statements of all fees collected. The clerk shall retain one copy for the commission's records and remit one copy of the statement, together with all fees collected, to the state Comptroller, who shall place the same to the credit of the Workers' Compensation Administration Trust Fund.

(g) The First District Court of Appeal shall retain jurisdiction over all workers' compensation proceedings pending before it on January 1, 1995.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 20.171, F.S.; establishing a Workers' Compensation Appellate Commission in the Department of Labor and Employment Security; providing for appointing judges of the commission; providing terms; providing powers and duties of the commission; authorizing the commission to charge certain fees; providing for a clerk of the commission; providing duties of the clerk;

RECONSIDERATION OF AMENDMENT

On motion by Senator Dantzler, the Senate reconsidered the vote by which **Amendment 81** was adopted. **Amendment 81** was withdrawn.

RECONSIDERATION OF AMENDMENT

Senator Hargrett moved that the Senate reconsider the vote by which **Amendment 82** as amended was adopted. The motion was adopted. The vote was

Yeas—22 Nays—18

The question recurred on **Amendment 82** as amended which failed. The vote was

Yeas—19 Nays—21

RECONSIDERATION OF AMENDMENT

On motion by Senator Hargrett, the Senate reconsidered the vote by which **Amendment 83** as amended was adopted. **Amendment 83** failed.

Senator Dantzler moved the following amendment:

Amendment 88—On page 68, line 3, through page 87, line 5, strike all of said lines and insert:

(h) "Independent medical examiner" means a physician selected by either an employee or a carrier to render one or more independent medical examinations in connection with a dispute arising under this chapter.

(i) "Independent medical examination" means an objective evaluation of the injured employee's medical condition, including, but not limited to, impairment or work status, performed by a physician or an expert medical advisor at the request of a party, a judge of compensation claims, or the division to assist in the resolution of a dispute arising under this chapter.

(j) "Instance of overutilization" means a specific inappropriate service or level of service provided to an injured employee.

(k) "Managed care organization" means a group of health care providers and health care facilities which has entered into a written agreement with the carrier to provide medical benefits required by this chapter and has been certified under this chapter. However, this section does not authorize a managed care organization that is formed, owned, or operated by a carrier as defined in s. 440.02 to become certified to provide managed care.

(l) "Medically necessary treatment, care, and attendance" means any skilled service or supply used to identify or treat an illness or injury that is appropriate to the patient's diagnosis and status of recovery and consistent with the location of service and with the level of care provided. The service must be based on scientific criteria and widely accepted among practicing health care providers. Attendance means custodial care as defined in subsection (1)(b) of this section. Medically necessary treatment, care, and attendance does not include:

1. Services of an experimental, investigative, or research nature, except in those instances in which prior approval of the division has been obtained.

2. Physical medicine services in excess of 12 treatments or physical medicine services rendered 6 weeks beyond the date of the initial physical medicines treatment, unless the carrier or managed care organization authorizes additional treatments.

3. Weight loss clinics.

4. Services that are not medical services.

5. Modifications and facilities, if available at a lower cost in the employee's community.

The division shall adopt rules to effect the purposes of this subsection and to provide for approval of experimental, investigative, and research procedures on a case-by-case basis when the procedure is shown to have significant benefits to the recovery and well-being of the patient.

(m) "Medicine" means a drug prescribed by an authorized health care provider and includes only generic drugs or single-source patented drugs for which there is no generic equivalent, unless the authorized health care

provider writes or states that the brand-name drug as defined in s. 465.025 is medically necessary, or is a drug appearing on the schedule of drugs created pursuant to s. 465.025(6).

(n) "Palliative care" means treatment or care rendered to an employee after the employee reaches maximum medical improvement.

(o) "Pattern or practice of overutilization" means repetition of instances of overutilization within a specific medical case or multiple cases by a single health care provider.

(p) "Peer review" means an evaluation by two or more physicians licensed under the same authority and with the same or similar specialty as the physician under review, of the appropriateness, quality, and cost of health care and health services provided to a patient, based on medically accepted standards.

(q) "Physical medicine services" means those modalities, procedures, tests, and measurements which involve physical agents or forces, including, but not limited to, the use of light, heat, water, and electricity, the adjustment or manipulation of the human body to treat malpositioned articulations, or supervised activities that retrain or improve bodily function, performed by any health care provider in the treatment of an injury compensable under this chapter.

(r) "Physician" or "doctor" means a medical doctor or doctor of osteopathy licensed under chapter 458, 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, all of whom must be certified by the division as a health care provider.

(s) "Reimbursement dispute" means any disagreement between a health care provider or health care facility and carrier concerning payment for medical treatment.

(t) "Soft-tissue injury" means an injury that produces damage to the soft tissues, rather than to the skeletal tissues or soft organs.

(u) "Utilization control" means a systematic process of implementing measures that assure overall management and cost containment of services delivered.

(v) "Utilization review" means the evaluation of the appropriateness of both the level and the quality of health care and health services provided to a patient, including, but not limited to, evaluation of the appropriateness of treatment, hospitalization, or office visits based on medically accepted standards. Such evaluation must be accomplished by means of a system that identifies the utilization of medical services based on medically accepted standards as established by medical consultants with qualifications similar to those providing the care under review, and that refers patterns and practices of overutilization to the division.

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(a) Subject to the limitations specified elsewhere in this chapter, the employer shall furnish, through certified health care providers or managed care organizations, to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Except in the case of a catastrophic injury as defined in s. 440.02, remedial treatment, care, and attendance does not include work-hardening programs, pain management clinics, or weight loss clinics.

(b) The employer shall provide appropriate professional or nonprofessional attendant care performed only at the direction and control of a physician when such care is medically necessary. The value of nonprofessional attendant care provided by a family member must be determined as follows:

1. If the family member is not employed, the per-hour value equals the federal minimum hourly wage.

2. If the family member is employed and elects to leave that employment to provide attendant or custodial care, the per-hour value of that care equals the per-hour value of the family member's former employment, not to exceed the per-hour value of such care available in the community at large. A family member or a combination of family members providing nonprofessional attendant care under this paragraph may not be compensated for more than a total of 12 hours per day.

(c) If the employer fails to provide treatment or care required by this section after request by the injured employee, the employee may obtain such treatment at the expense of the employer, if the treatment is compensable and medically necessary. There must be a specific request for the treatment, and the employer or carrier must be given a reasonable time period within which to provide the treatment or care. However, the employee is not entitled to recover any amount personally expended for the treatment or service unless he has requested the employer to furnish that treatment or service and the employer has failed, refused, or neglected to do so within a reasonable time or unless the nature of the injury requires such treatment, nursing, and services and the employer or his superintendent or foreman, having knowledge of the injury, has neglected to provide the treatment or service.

(d) The carrier has the right to transfer the care of an injured employee from the attending health care provider if an independent medical examination determines that the employee is not making appropriate progress in recuperation.

(e) Except in emergency situations and for treatment rendered by a certified managed care organization, after any initial examination and diagnosis by a physician providing remedial treatment, care, and attendance, and before a proposed course of medical treatment begins, each insurer shall review, in accordance with the requirements of this chapter, the proposed course of treatment, to determine whether such treatment would be recognized as reasonably prudent. The review must be in accordance with all applicable workers' compensation practice parameters. The insurer must accept any such proposed course of treatment unless the insurer notifies the physician of its specific objections to the proposed course of treatment by the close of the tenth business day after notification by the physician, or a supervised designee of the physician, of the proposed course of treatment.

(3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

(a) As a condition to eligibility for payment under this chapter, a health care provider must be a certified health care provider and must receive authorization from the carrier or its managed care provider before providing treatment. This paragraph does not apply to emergency care. The division shall adopt rules to implement the certification of health care providers. As a one-time prerequisite to obtaining certification, the division shall require each physician to demonstrate proof of completion of a minimum 5-hour course that covers the subject areas of cost containment, utilization control, ergonomics, and the practice parameters adopted by the division governing the physician's field of practice. The division shall coordinate with the Agency for Health Care Administration, the Florida Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association, the Florida Optometric Association, and the Florida Dental Association, in complying with this subsection. No later than October 1, 1994, the division shall adopt rules regarding the criteria and procedures for approval of courses and the filing of proof of completion by the physicians.

(b) A health care provider who renders emergency care must notify the carrier by the close of the third business day after it has rendered such care or has knowledge that the treatment is work-related. If the emergency care results in admission of the employee to a health care facility, the health care provider must notify the carrier by telephone within 24 hours after initial treatment. Emergency care is not compensable under this chapter unless the injury requiring emergency care arose as a result of an industrial accident.

(c) A health care provider may not refer the employee to another health care provider, diagnostic facility, therapy center, or other facility without prior authorization from the carrier, except when emergency care is rendered. Any referral must be to a health care provider that has been certified by the division, unless the referral is for emergency treatment.

(d) A carrier must respond, by telephone or in writing, to a request for authorization by the close of the third business day after receipt of the request. A carrier who fails to respond to a written request for authorization for referral for medical treatment by the close of the third business day after receipt of the request consents to the medical necessity for such treatment. All such requests must be made to the carrier. Notice to the carrier does not include notice to the employer.

(e) Carriers shall adopt procedures for receiving, reviewing, documenting, and responding to requests for authorization. Such procedures shall be for a health care provider certified under this section.

(f) By accepting payment under this chapter for treatment rendered to an injured employee, a health care provider consents to the jurisdiction of the division as set forth in subsection (11) and to the submission of all records and other information concerning such treatment to the division in connection with a reimbursement dispute, audit, or review as provided by this section. The health care provider must further agree to comply with any decision of the division rendered under this section.

(g) The employee is not liable for payment for medical treatment or services provided pursuant to this section except as otherwise provided in this section.

(h) An employer, carrier, self-insurer, or health care provider may not refer an injured worker for medical care or other services under this chapter to any entity in which the employer, carrier, self-insurer, or health care provider has a financial or ownership interest. Treatment rendered in contravention of this subsection is not reimbursable under this chapter. This paragraph does not apply to referrals within certified managed care organizations.

(i) Notwithstanding paragraph (d), a claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, X-ray examinations, or special diagnostic laboratory tests that cost more than \$1,000 is not valid and reimbursable unless the services have been expressly authorized by the carrier, or unless the carrier has failed to respond within 10 days to a request for authorization, or unless emergency care is required.

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH DIVISION.—

(a) Any health care provider providing necessary remedial treatment, care, or attendance to any injured worker shall submit treatment reports to the carrier in a format prescribed by the division. A claim for medical or surgical treatment is not valid or enforceable against such employer or employee, unless, by the close of the third business day following the first treatment, the physician providing the treatment furnishes to the employer or carrier a preliminary notice of the injury and treatment on forms prescribed by the division and, within 15 days thereafter, furnishes to the employer or carrier a complete report, and subsequent thereto furnishes progress reports, if requested by the employer or insurance carrier, at intervals of not less than 3 weeks apart or at less frequent intervals if requested on forms prescribed by the division.

(b) Each medical report or bill obtained or received by the employer, the carrier, or the injured employee, or the attorney for the employer, carrier, or injured employee, with respect to the remedial treatment or care of the injured employee, including any report of an examination, diagnosis, or disability evaluation, must be filed with the Division of Workers' Compensation pursuant to rules adopted by the division. The health care provider shall also furnish to the injured employee or to his attorney, on demand, a copy of his office chart, records, and reports, and may charge the injured employee an amount authorized by the division for the copies. Each such health care provider shall provide to the division any additional information about the remedial treatment, care, and attendance that the division reasonably requests.

(c) It is the policy for the administration of the workers' compensation system that there be unencumbered access to medical information by all parties to facilitate the self-executing features of the law. Notwithstanding the limitations in s. 455.241 and subject to the limitations in s. 381.004, upon the request of the employer, the carrier, or the attorney for either of them, the medical records of an injured employee must be furnished to those persons and the medical condition of the injured employee must be discussed with those persons, if the records and the discussions are restricted to conditions relating to the workplace injury. Any such discussions may be held before or after the filing of a claim without the knowledge, consent, or presence of any other party or his agent or representative. A health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made for such information pursuant to this subsection, shall be subject by the division to one or more of the penalties set forth in paragraph (8)(b).

(5) INDEPENDENT MEDICAL EXAMINATIONS.—

(a) In any dispute concerning overutilization, medical benefits, compensability, or disability under this chapter, the carrier or the employee may select an independent medical examiner. The examiner may be a health care provider treating or providing other care to the employee. An

independent medical examiner may not render an opinion outside his or her area of expertise, as demonstrated by licensure and applicable practice parameters.

(b) Each party shall be bound by his or her selection of an independent medical examiner and shall be entitled to an alternate examiner in the following circumstances only:

1. The examiner is not qualified to render an opinion upon an aspect of the employee's illness or injury that is material to the claim or petition for benefits;
2. The examiner ceases to practice in the specialty relevant to the employee's condition;
3. The examiner is unavailable due to injury, death, or relocation outside of a reasonably accessible geographic area; or
4. The parties agree to an alternate examiner.

Any party may request, or a judge of compensation claims may require, designation of a division medical advisor as an independent medical examiner. Advisors acting as examiners shall not be afforded the presumption set forth in subsection 9(c) of this section.

(c) The carrier may, at its election, contact the employee directly to schedule a reasonable time for an independent medical examination. The carrier shall confirm, within 5 days, the scheduling agreement in writing and notify the employee and his or her counsel, if any, at least 14 days prior to the date upon which the independent medical examination is scheduled to occur.

(d) If the employee fails to appear for the independent medical examination without good cause and fails to advise the physician at least 24 hours prior to the scheduled date for the examination that he or she cannot appear, the employee shall reimburse the carrier 50 percent of the physician's cancellation or no-show fee. However, the employee shall not be required to bear such cost if the carrier that schedules the examination fails to timely provide to the employee a written confirmation of the date of the examination that clearly explains the consequences of failure to appear.

(e) No medical opinion other than the opinion of a medical advisor appointed by the judge of compensation claims or division, an independent medical examiner, or an authorized treating provider shall be admissible in proceedings before the judges of compensation claims.

(f) Attorney's fees incurred by an injured employee in connection with delay of or opposition to an independent medical examination, including, but not limited to, motions for protective orders, shall not be recoverable under this chapter.

(6) UTILIZATION REVIEW.—Carriers shall review all bills, invoices, and other claims for payment submitted by health care providers in order to identify overutilization and billing errors, and may hire peer review consultants or conduct independent medical evaluations. Such consultants, including peer review organizations, are immune from liability in the execution of their functions under this subsection to the extent provided in s. 766.101. If a carrier finds that overutilization of medical services or a billing error has occurred, it must disallow or adjust payment for such services or error without order of a judge of compensation claims or the division, if the carrier, in making its determination, has complied with this section and rules adopted by the division.

(7) UTILIZATION AND REIMBURSEMENT DISPUTES.—

(a) Any health care provider, carrier, or employer who elects to contest the disallowance or adjustment of payment by a carrier under subsection (6) must, within 30 days after receipt of notice of disallowance or adjustment of payment, petition the division to resolve the dispute. The petitioner must serve a copy of the petition on the carrier and on all affected parties by certified mail. The petition must be accompanied by all documents and records that support the allegations contained in the petition. Failure of a petitioner to submit such documentation to the division results in dismissal of the petition.

(b) The carrier must submit to the division within 10 days after receipt of the petition all documentation substantiating the carrier's disallowance or adjustment. Failure of the carrier to submit the requested documentation to the division within 10 days constitutes a waiver of all objections to the petition.

(c) Within 60 days after receipt of all documentation, the division must provide to the petitioner, the carrier, and the affected parties a written determination of whether the carrier properly adjusted or disallowed payment. The division must be guided by standards and policies set forth in this chapter, including all applicable reimbursement schedules, in rendering its determination.

(d) The division shall adopt rules to carry out this subsection. The rules may include provisions for consolidating petitions filed by a petitioner and expanding the timetable for rendering a determination upon a consolidated petition.

(e) Any carrier that engages in a pattern or practice of arbitrarily or unreasonably disallowing or reducing payments to health care providers may be subject to one or more of the following penalties imposed by the division:

1. Repayment of the appropriate amount to the health care provider.
2. An administrative fine assessed by the division in an amount not to exceed \$5,000 per instance of improperly disallowing or reducing payments.
3. Award of the health care provider's costs, including a reasonable attorney's fee, for prosecuting the petition.

(8) PATTERN OR PRACTICE OF OVERUTILIZATION.—

(a) Carriers must report to the division all instances of overutilization including, but not limited to, all instances in which the carrier disallows or adjusts payment. The division shall determine whether a pattern or practice of overutilization exists.

(b) If the division determines that a health care provider has engaged in a pattern or practice of overutilization or a violation of this chapter or rules adopted by the division, it may impose one or more of the following penalties:

1. An order of the division barring the provider from payment under this chapter;
2. Deauthorization of care under review;
3. Denial of payment for care rendered in the future;
4. Decertification of a health care provider certified as an expert medical advisor under subsection (9) or of a rehabilitation provider certified under s. 440.49;
5. An administrative fine assessed by the division in an amount not to exceed \$5,000 per instance of overutilization or violation; and
6. Notification of and review by the appropriate licensing authority pursuant to s. 440.106(3).

(9) EXPERT MEDICAL ADVISORS.—

(a) The division shall certify expert medical advisors in each specialty to assist the division within the advisor's area of expertise as provided in this section. The division shall, in a manner prescribed by rule, in certifying, recertifying, or decertifying an expert medical advisor, consider the qualifications, training, impartiality, and commitment of the health care provider to the provision of quality medical care at a reasonable cost. As a prerequisite for certification or recertification, the division shall require, at a minimum, that an expert medical advisor have specialized workers' compensation training or experience under the workers' compensation system of this state and board certification or board eligibility.

(b) The division shall contract with expert medical advisors to provide peer review or medical consultation to the division in connection with resolving disputes relating to reimbursement, differing opinions of health care providers, and health care and physician services rendered under this chapter. Expert medical advisors contracting with the division shall, as a term of such contract, agree to provide consultation or services in accordance with the timetables set forth in this chapter and to abide by rules adopted by the division, including, but not limited to, rules pertaining to procedures for review of the services rendered by health care providers and preparation of reports and recommendations for submission to the division.

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment,

or if two health care providers disagree that the employee is able to return to work, the division, within 15 days after receipt of a written request by either the injured employee, the employer, or the carrier, shall order the injured employee to be evaluated by an expert medical advisor. The opinion of the expert medical advisor is presumed to be correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The expert medical advisor appointed to conduct the evaluation shall have free and complete access to the medical records of the employee. An employee who fails to report to and cooperate with such evaluation forfeits entitlement to compensation during the period of failure to report or cooperate.

(d) The expert medical advisor must complete his evaluation and issue his report to the division or to the judge of compensation claims within 45 days after receipt of all medical records. The expert medical advisor must furnish a copy of the report to the carrier and to the employee.

(e) An expert medical advisor is not liable under any theory of recovery for evaluations performed under this section without a showing of fraud or malice. The protections of s. 766.101 apply to any officer, employee, or agent of the division and to any officer, employee, or agent of any entity with which the division has contracted under this subsection.

(f) If the division or a judge of compensation claims determines that the services of a certified expert medical advisor are required to resolve a dispute under this section, the carrier must compensate the advisor for his time in accordance with a schedule adopted by the division. The division may assess a penalty not to exceed \$500 against any carrier that fails to timely compensate an advisor in accordance with this section.

(10) **WITNESS FEES.—**Any health care provider who gives a deposition shall be allowed a witness fee. The amount charged by the witness may not exceed \$200 per day. This limitation also applies to an expert witness who has never provided direct professional services to a party but has merely reviewed medical records and provided an expert opinion or has provided only direct professional services that were unrelated to the workers' compensation case.

(11) AUDITS BY DIVISION; JURISDICTION.—

(a) The Division of Workers' Compensation of the Department of Labor and Employment Security may investigate health care providers to determine whether providers are complying with this chapter and with rules adopted by the division, whether the providers are engaging in overutilization, and whether providers are engaging in improper billing practices. If the division finds that a health care provider has improperly billed, overutilized, or failed to comply with division rules or the requirements of this chapter it must notify the provider of its findings and may determine that the health care provider may not receive payment from the carrier or may impose penalties as set forth in subsection (8) or other sections of this chapter. If the health care provider has received payment from a carrier for services that were improperly billed or for overutilization, it must return those payments to the carrier. The division may assess a penalty not to exceed \$500 for each overpayment that is not refunded within 30 days after notification of overpayment by the division or carrier.

(b) The division shall monitor and audit carriers to determine if medical bills are paid in accordance with this section and division rules. Any employer, if self-insured, or carrier found by the division not to be within 90 percent compliance as to the payment of medical bills after July 1, 1994, must be assessed a fine not to exceed 1 percent of the prior year's assessment levied against such entity under s. 440.51 for every quarter in which the entity fails to attain 90-percent compliance. The division shall fine an employer or carrier, pursuant to rules adopted by the division, for each late payment of compensation that is below the minimum 90-percent performance standard. Any carrier that is found to be not in compliance in subsequent consecutive quarters must implement a medical-bill review program approved by the division, and the carrier is subject to disciplinary action by the Department of Insurance.

(c) The division has exclusive jurisdiction to decide any matters concerning reimbursement, to resolve any overutilization dispute under subsection (7), and to decide any question concerning overutilization under subsection (8), which question or dispute arises after January 1, 1994.

(d) The following division actions do not constitute agency action subject to review under s. 120.57 and do not constitute actions subject to

s. 120.54 or s. 120.56: referral by the entity responsible for utilization review; a decision by the division to refer a matter to a peer review committee; establishment by a health care provider or entity of procedures by which a peer review committee reviews the rendering of health care services; and the review proceedings, report, and recommendation of the peer review committee.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Insurance Commissioner, or his designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary remedial treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, durable medical equipment, and managed-care providers. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. However, the maximum percentage of increase in the individual reimbursement allowance may not exceed the percentage of increase in the Consumer Price Index for the previous year. An individual physician, hospital, or ambulatory surgical center shall be reimbursed either the usual and customary charge for treatment, care, and attendance, the agreed-upon contract price, or the maximum reimbursement allowance in the appropriate schedule, whichever is less.

(b) The reimbursement amount for a prescription medication is the average wholesale price, unless the carrier has contracted for a lower amount.

(c) Notwithstanding any other provision of this chapter, following maximum medical improvement from a compensable illness or injury, the employee shall be obligated to pay a copayment of \$5 per visit for palliative care.

(d) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. Until the three-member panel approves a uniform schedule of maximum reimbursement allowances and it becomes effective, all compensable charges for treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, or pain programs shall be reimbursed at the lowest maximum reimbursement allowance across all 1992 schedules of maximum reimbursement allowances for the services provided regardless of the place of service. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;
2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers;
3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.401, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and

4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(e) Determinations and activities of the three-member panel are not subject to chapter 120.

SENATOR CHILDERS PRESIDING

Senator Dantzler moved the following substitute amendment which was adopted:

Amendment 89—On page 70, line 31, after "clinics." insert: Medically necessary treatment care and attendance does not include chiropractic services in excess of 18 treatments or rendered 8 weeks beyond the date of the initial physical medicines treatment, whichever comes first, unless the carrier authorizes additional treatment or the employee is catastrophically injured.

Senator Dantzler moved the following amendment which was adopted:

Amendment 90 (with Title Amendment)—On page 35, between lines 13 and 14, insert:

(g) *For purposes of this section, a person is conclusively presumed to be an independent contractor if:*

1. *The independent contractor provides the general contractor with an affidavit stating that he meets all the requirements of s. 440.02(13)(d); and*
2. *The independent contractor provides the general contractor with a valid certificate of workers' compensation insurance or a valid certificate of exemption issued by the division.*

A sole proprietor, independent contractor, partner, or officer of a corporation who elects exemption from this chapter by filing a certificate of election under s. 440.05 may not recover benefits or compensation under this chapter.

And the title is amended as follows:

In title, on page 1, line 23, after the second semicolon (;) insert: providing circumstances under which a person is presumed to be an independent contractor;

Senator McKay moved the following amendment:

Amendment 91—On page 85, line 2, after the period insert: *By December 1, 1993, the three-member panel shall adopt maximum reimbursement allowances for in-patient hospital care based on a schedule of per diem rates, to be used in conjunction with a pre-certification manual as determined by the division.*

Senator Jennings moved the following substitute amendment which was adopted:

Amendment 92 (with Title Amendment)—On page 85, line 2, after "providers." insert:

The maximum reimbursement allowances for inpatient hospital care may be based on a schedule of per diem rates, approved by the three-member panel, to be used in conjunction with a precertification manual as determined by the division. To the extent the per diem rates for inpatient hospital care apply, the uniform schedule of maximum reimbursement allowances provided for in this section do not apply. Until the three-member panel approves a schedule of per diem rates for inpatient hospital care, hospital inpatient care must be reimbursed as otherwise provided in this section.

And the title is amended as follows:

In title, on page 4, line 1, after the semicolon (;), insert: providing for per diem reimbursement for hospital inpatient services;

Senator McKay moved the following amendment which was adopted:

Amendment 93 (with Title Amendment)—On page 87, between lines 5 and 6, insert:

(d) *The division shall conduct a study of all phases of the health care delivery system by using hospital patient data of workers whose date of accident was between July 1, 1992 and June 30, 1993. The data shall be collected using a common patient identifier. The data shall be aggregated and analyzed to determine:*

pools; creating s. 627.7014, F.S.; providing resolution procedures for disputed claims; creating s. 627.7015, F.S.; providing for orderly markets for personal lines and residential property insurance; amending s. 628.801, F.S.; providing an exception to rules regulating insurance holding companies; amending s. 631.52, F.S.; deleting the exception of surplus lines insurers from the provisions of the Florida Insurance Guaranty Association Act; amending s. 631.54, F.S.; providing that a surplus insurer is a member insurer and subject to the Florida Insurance Guaranty Association Act; amending s. 631.55, F.S.; providing that for administration and assessment purposes the Florida Insurance Guaranty Association, Incorporated, is divided into five accounts; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Senator Grogan—

SB 30-C—A bill to be entitled An act relating to administration of the Defense Reinvestment Incentive Program; providing a public records exemption for certain information received by the Department of Commerce pursuant thereto; providing for future review and repeal in accordance with s. 119.14, F.S.; providing legislative findings; providing an effective date.

—was referred to the Committees on International Trade, Economic Development and Tourism; and Appropriations.

By Senators Grogan, Hargrett, Gutman, Grant, Siegel, Williams, Kurth, Jennings, Harden, Johnson, Wexler, Jenne, Dyer, Boczar, Meadows, Burt, Casas, Brown-Waite, Silver, Scott, Forman and Holzendorf—

SB 32-C—A bill to be entitled An act relating to federal defense contracts; providing legislative findings; providing for the establishment of a Defense Reinvestment Incentive Program within the Department of Commerce; providing for the issuance of vouchers to reimburse federal defense contractors or subcontractors for certain costs; providing definitions; providing requirements for applications for vouchers; requiring the Division of Economic Development of the Department of Commerce to review applications and adopt related rules; providing for the division to forward evaluations of applications to the Defense Reinvestment Incentive Advisory Committee of the department, which is established by the act; providing for membership, terms of appointment, meetings, and reimbursement of members for travel and per diem; providing for the expenditure of the funds in the Economic Development Trust Fund; amending s. 213.053, F.S., relating to confidentiality and information sharing; providing that the Department of Revenue may furnish certain information to the Department of Commerce in its administration of the program; providing a penalty for a breach of confidentiality; amending s. 288.095, F.S., relating to the Economic Development Trust Fund; providing for the deposit of moneys into that trust fund; amending s. 443.171, F.S., relating to the powers and duties of the Division of Unemployment Compensation of the Department of Labor and Employment Security; providing for that division to release certain information to the Department of Commerce in its administration of the Defense Reinvestment Incentive Program; providing an appropriation and establishing positions; providing an effective date.

—was referred to the Committees on International Trade, Economic Development and Tourism; and Appropriations.

MOTION TO INTRODUCE BILL

On motion by Senator Forman, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator Forman—

SB 34-C—A bill to be entitled An act relating to motor vehicles; amending s. 320.06, F.S.; deleting a requirement that license plates bear the name of the county where sold; amending s. 320.1325, F.S.; providing for the issuance of certain temporary license plates; providing for fees; providing for the sale of existing license plates bearing county names; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

MOTION TO INTRODUCE BILL

On motion by Senator Jenne, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senator Jenne—

SB 36-C—A bill to be entitled An act relating to the State University System; creating the State University System Teaching and Departmental Incentive Program; providing legislative intent; providing procedures; providing for approval by the Board of Regents; providing for a report to the Legislature; providing for certain funds appropriated by chapter 93-184, Laws of Florida, to be used to fund the program; providing an effective date.

—was referred to the Committee on Appropriations.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Criminal Justice and Senator Silver—

CS for SB 10-C—A bill to be entitled An act relating to juveniles; amending s. 790.17, F.S.; prohibiting the sale or transfer of a firearm to a minor; providing a penalty; providing exceptions; amending s. 790.174, F.S.; redefining the term "minor" for purposes of the law that requires the safe storage of a firearm; amending s. 790.175, F.S.; redefining the term "minor" for purposes of the requirement that the purchaser of a firearm be informed that it is unlawful to store or leave a firearm within access of a minor; amending s. 790.18, F.S.; prohibiting an arms dealer from selling or transferring a firearm or certain other weapons to a minor; providing a penalty; amending s. 790.22, F.S.; prohibiting a minor from possessing a firearm; providing certain exceptions; prohibiting the parent or guardian of a minor from willfully and knowingly permitting the minor to unlawfully possess a firearm; providing penalties; providing for the seizure of a firearm that is possessed, carried, or used unlawfully by a minor; providing that such provisions are supplemental to certain other criminal sanctions; amending s. 790.23, F.S.; prohibiting juveniles who are adjudicated delinquent for an act that would be a felony if committed by an adult from owning or possessing a weapon or firearm during the period of the court's continuing jurisdiction under ch. 39, F.S.; amending s. 790.25, F.S., relating to the lawful possession of a firearm; conforming provisions to changes made by the act; requiring that a minor charged with certain offenses involving the use or possession of a firearm be detained in secure detention unless the state attorney authorizes the minor's release; providing for a hearing within a specified period; providing circumstances under which the court may order that the minor continue to be held in secure detention; requiring the court to order a minimum mandatory period of secure detention in addition to other punishments provided by law if the minor is found to have committed certain offenses involving the use or possession of a firearm and is not committed to a residential commitment program of the Department of Health and Rehabilitative Services; providing for mandatory revocation or suspension of the driving privilege if a minor is found to have committed certain offenses involving the use of possession of a firearm; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Pat Thomas, President

I am directed to inform the Senate that the House of Representatives has passed HB 73-C; has adopted HM 51-C, HM 61-C and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Cosgrove—

HB 73-C—A bill to be entitled An act relating to public records; exempting certain reports of insured values under certain insurance policies submitted to the State Board of Administration from public records requirements; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committee on Commerce.

By Representative Cosgrove—

HM 51-C—A memorial to the Congress of the United States urging adoption of legislation concerning natural disasters and related relief efforts and urging leadership by the Florida delegation.

—was referred to the Committee on Rules and Calendar.

By Representative De Grandy—

HM 61-C—A memorial to the Congress of the United States urging creation of a federal catastrophe fund and federal tax deductions to insurance companies for use after catastrophic events.

—was referred to the Committee on Rules and Calendar.

ROLL CALLS ON SENATE BILLS

**SB 12-C—Amendment 82A
Motion to Reconsider**

Yeas—35

Mr. President	Dantzler	Harden	McKay
Bankhead	Diaz-Balart	Hargrett	Meadows
Beard	Dudley	Holzendorf	Myers
Boczar	Dyer	Jenne	Silver
Burt	Foley	Jennings	Sullivan
Casas	Forman	Jones	Weinstein
Childers	Grant	Kirkpatrick	Wexler
Crenshaw	Grogan	Kiser	Williams
Crist	Gutman	Kurth	

Nays—3

Johnson	Siegel	Turner
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SB 12-C—Amendment 82

Yeas—22

Beard	Foley	Jennings	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kiser	Weinstein
Crenshaw	Grogan	McKay	Wexler
Crist	Hargrett	Meadows	
Dudley	Jenne	Scott	

Nays—18

Mr. President	Dantzler	Holzendorf	Siegel
Bankhead	Diaz-Balart	Johnson	Turner
Burt	Dyer	Kirkpatrick	Williams
Casas	Gutman	Kurth	
Childers	Harden	Myers	

**SB 12-C—Amendment 82
Motion to Reconsider**

Yeas—22

Mr. President	Dantzler	Holzendorf	Siegel
Bankhead	Diaz-Balart	Johnson	Silver
Brown-Waite	Dyer	Jones	Turner
Casas	Gutman	Kirkpatrick	Williams
Childers	Harden	Kurth	
Crist	Hargrett	Myers	

Nays—18

Beard	Foley	Jennings	Sullivan
Boczar	Forman	Kiser	Weinstein
Burt	Grant	McKay	Wexler
Crenshaw	Grogan	Meadows	
Dudley	Jenne	Scott	

**SB 12-C—Amendment 82
After Reconsideration**

Yeas—19

Beard	Dudley	Jenne	Scott
Boczar	Foley	Jennings	Sullivan
Brown-Waite	Forman	Kiser	Weinstein
Crenshaw	Grant	McKay	Wexler
Crist	Grogan	Meadows	

Nays—21

Mr. President	Diaz-Balart	Johnson	Silver
Bankhead	Dyer	Jones	Turner
Burt	Gutman	Kirkpatrick	Williams
Casas	Harden	Kurth	
Childers	Hargrett	Myers	
Dantzler	Holzendorf	Siegel	

SB 12-C

Yeas—40

Mr. President	Dantzler	Hargrett	Meadows
Bankhead	Diaz-Balart	Holzendorf	Myers
Beard	Dudley	Jenne	Scott
Boczar	Dyer	Jennings	Siegel
Brown-Waite	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Turner
Childers	Grogan	Kiser	Weinstein
Crenshaw	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams

Nays—None

SB 14-C

Yeas—39

Mr. President	Dantzler	Holzendorf	Myers
Bankhead	Diaz-Balart	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Turner
Casas	Grogan	Kiser	Weinstein
Childers	Gutman	Kurth	Wexler
Crenshaw	Harden	McKay	Williams
Crist	Hargrett	Meadows	

Nays—None

CORRECTION AND APPROVAL OF JOURNAL

The Journal of November 1 was corrected and approved.

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 5:11 p.m. for the purpose of holding committee meetings and conducting other Senate business until 10:15 a.m., Wednesday, November 3.