

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2224

SPONSOR: Appropriations Subcommittee on General Government, Banking & Insurance Committee and Senator Clary

SUBJECT: Workers' Compensation

DATE: April 26, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Deffenbaugh	BI	Favorable/CS
2.	Rhea	Wilson	GO	Fav/11 amendments
3.	Hayes	Martin	AGG	Favorable/CS
4.			AP	Withdrawn: Fav/CS
5.				
6.				

**I. Summary:**

The committee substitute (the “CS”) abolishes the Department of Labor and Employment Security (DLES), effective October 1, 2001 and transfers all its powers, duties, functions, rules, records, property, and unexpended balances of appropriations, to other agencies as follows:

- the functions of the Division of Workers’ Compensation without personnel to the Department of Insurance (DOI) effective October 1, 2001;
- four senior attorney positions and one administrative support position and related resources are also transferred to the DOI effective October 1, 2001;
- the Office of the Judges of Compensation Claims and 18 Division of Workers’ Compensation support positions for this office to the Division of Administrative Hearings effective October 1, 2001;
- 98 positions associated with workers’ compensation rehabilitation and reemployment services to the Division of Vocational Rehabilitation in the Department of Education effective October 1, 2001;
- 29 positions associated with workers’ compensation medical services to the Agency for Health Care Administration effective July 1, 2001; though claims review functions and a three-member panel are retained within the DOI;
- certain resources of the Office of the Secretary and the Office of Administrative Services of the DLES are transferred to the DOI, AHCA, and the DOE, respectively.

Other transfers from the Department of Labor and Employment Security:

- the farm labor and child labor programs to the Department of Business and Professional Regulation (DBPR) effective July 1, 2001;

- the Unemployment Appeals Commission to the Agency for Workforce Innovation effective July 1, 2001;
- the Public Employees Relations Commission to the Department of Management Services effective July 1, 2001;
- the Office of Information Systems to the State Technology Office in the Department of Management Services.

The CS also makes changes to the administration of the workers' compensation law: (1) DOI is authorized to share confidential medical records with AHCA to assist the agency in fulfilling its responsibilities and AHCA is required to maintain the confidentiality of the information; (2) DOI is required to develop reporting requirements for health care providers in consultation with AHCA; (3) DOI is authorized to monitor and audit workers' compensation carriers and to fine or discipline a carrier; and (4) reporting and administrative functions are revised or eliminated.

The CS transfers regulatory authority over individual employers that self-insure for purposes of workers' compensation from the Division of Workers' Compensation to the Department of Insurance and to the Florida Self-Insurance Guaranty Association. Currently, the Florida Self-Insurance Guaranty Association is organizationally located within the Department of Labor and Employment Security.

The CS also revises the workers' compensation security deposit requirements for individual self-insured employers by eliminating the use of certificates of deposit, U.S. Treasury Notes and Bonds, and securities issued by the State of Florida and backed by the full faith and credit of the state as types of qualifying security deposits. The bill also requires individual self-insured employers to comply with the revised workers' compensation security deposit requirements on or before December 31, 2001, or upon maturity of the security deposits, whichever occurs later.

This CS substantially amends the following sections of the Florida Statutes: 20.13, 110.205, 440.015, 440.02, 440.021, 440.05, 440.09, 440.10, 440.102, 440.103, 440.105, 440.106, 440.107, 440.108, 440.125, 440.13, 440.134, 440.14, 440.15, 440.17, 440.185, 440.191, 440.192, 440.1925, 440.20, 440.207, 440.211, 440.24, 440.25, 440.271, 440.345, 440.35, 440.381, 440.385, 440.386, 440.38, 440.40, 440.41, 440.42, 440.44, 440.49, 440.491, 440.4416, 440.50, 440.51, 440.52, 440.525, 440.572, 440.59, 440.591, 440.593, 443.012, 443.036, 447.02, 447.205, 447.305, 450.012, 450.191, 450.28, 468.529, 626.88, 626.989, 627.0915, 627.914, and 624.3161. The CS repeals the following section of the Florida Statutes: 20.171.

## **II. Present Situation:**

### **Chapter 20, Florida Statutes**

Section 20.171, F.S., creates the Department of Labor and Employment Security (DLES). The head of the DLES is the Secretary of Labor and Employment Security. There are two assistant secretaries, the Assistant Secretary for Finance and Administration and the Assistant Secretary for Programs and Operations. The DLES has five field offices which are headed by managers.

Section 20.171(3)(c), F.S., creates the Office of Administration, the Office of Management and Budget, and the Office of Information Services. These offices are headed by managers who are supervised by and responsible to the Assistant Secretary for Finance and Administration.

Section 20.171(7), F.S., establishes the following commissions within the DLES: The Public Employees Relations Commission and the Unemployment Appeals Commission.

Section 110.205, F.S.,<sup>1</sup> provides that the positions described in Chapter 20, F.S., are exempt positions and therefore not classified as career service.

Legislation was enacted last session that significantly reorganized the Department of Labor and Employment Security by eliminating many programs and functions or transferring the programs or functions to other agencies.<sup>2</sup> See Section V of the analysis regarding the functions and positions remaining at the department at this time

### **Type I and Type II Transfers**

Section 20.06, F.S., provides the method by which reorganization of the executive branch is to occur. The section provides for two methods of transfer:

**Type I Transfer** – In this type of transfer, an existing *agency* or *department* is *transferred intact* to another agency or department *by becoming a unit* of the agency or department to which it is transferred. For example, if the Public Service Commission were transferred to the Department of Environmental Protection and the entire agency was made a division of that department, a Type I Transfer would be the appropriate method of transfer. When an agency or department is transferred intact to another agency or department, the transferred agency or department exercises its powers, duties, and functions subject to review and approval by, and under the direct supervision of, the head of the agency or department to which the transfer is made, unless otherwise provided by law.

Under a Type I Transfer, the transferred agency or department which becomes a unit of another agency or department, has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds transferred to the agency or department to which it is transferred. When segregated funds are transferred, the transfer must be completed in such a fashion that the relation between the program and the revenue source as is provided by law is retained.

Additionally, under a Type I Transfer, the Administrative rules of the agency or department that is transferred remain in effect until specifically changed under the procedures provided in ch. 120, F.S., the Administrative Procedure Act.

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<sup>1</sup> Chapter 110, F.S., deals with public officers, employees, and records. More specifically, ss. 110.201-110.235, F.S., deals with the career service system.

<sup>2</sup> Ch. 2000-165, L.O.F.

**Type II Transfer** – This type of transfer applies not only to agencies and departments that are transferred, but to the transfer of specific programs, activities, functions, units or subunits within an agency or department. Under a Type II transfer, an agency, a department, program, activity, function, identifiable unit or subunit is merged into another agency or department.

The merged agency, department, program, activity, function, unit or subunit retains all its statutory powers, duties, and functions under a Type II Transfer. Its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred to the agency with which it is merged, except those transferred elsewhere or abolished. The transfer of segregated funds must be made in such a manner that the relation between the program and revenue source that is provided by law is retained.

Unless otherwise provided by law, the head of the agency or department to which an existing agency, department, program, activity, function or unit is transferred is authorized to establish units or subunits to which the agency or department is assigned. Further the head of the receiving agency may assign administrative authority for identifiable programs, activities, or functions, to the extent authorized by ch. 20, F.S.

Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed pursuant to ch. 120, F.S.

### **Chapter 440, Florida Statutes**

Chapter 440, F.S., is the “Workers’ Compensation Law.” Presently, the Division of Workers’ Compensation in the Department of Labor and Employment Security is organized into the following program/function areas: Monitoring and Audit, Employee Assistance and Ombudsman Office, Rehabilitation and Medical Services, Operations Support (including the Special Disability Trust Fund), Compliance, Research and Education, Information Management, and the Director's Office.

The Bureau of Monitoring and Audit is primarily responsible for monitoring the accuracy and timeliness of benefit payments, assessing penalties for late payments or reporting, and auditing carriers and individual, self-insurers (or their servicing company, if applicable) to determine compliance with statutory requirements for timeliness and accuracy of payment. The bureau is also responsible for administering the permanent total supplemental benefits provided to workers injured prior to July 1, 1984.

The Bureau of Employee Assistance and Ombudsman Office (EAO) is charged with the responsibility of informing and assisting employers/carriers, injured workers, and health care providers in fulfilling their respective responsibilities under ch. 440, F.S., the Workers’ Compensation Law. Section 440.191, F.S., also directs EAO to “take all steps necessary to educate and disseminate information to employees and employers.”

To effect the self-executing features of the law, s. 440.191, F.S., provides that ch. 440, F.S., is construed to permit injured workers and employers/carriers to resolve disputes “. . . without undue expense, costly litigation, or delay in the provisions of benefits.” As a result, EAO

investigates disputes and attempts to resolve disputes between injured workers and the carrier/employer in an informal manner through the Request for Assistance process. Rules 38F-26.002 and 26.004, F.A.C., require such a request to be submitted on a division Request for Assistance form.

An employee may not file a petition for benefits unless the employee has exhausted this informal dispute resolution process. If resolution is not made in 30 days, EAO may assist the employee in drafting a petition for benefits. Under the provisions of s. 440.192, F.S., the employee is required to serve the petition upon the employer, the employer's carrier, and the division. The division refers the petition to the Office of the Judges of Compensation Claims for ultimate disposition. Within 14 days of receipt of a petition for benefits, the carrier must either pay the requested benefits without prejudice to its right to deny within 120 days of receipt of the petition or file a notice of denial with the division.

The Bureau of Rehabilitation and Medical Services certifies and decertifies health care providers, promulgates reimbursement manuals, resolves reimbursement disputes, monitors carriers' compliance with reimbursement policies, evaluates carrier-provided re-employment services and training, and provides screening, re-employment, and training for injured workers.

The Bureau of Compliance is charged with the responsibility of ensuring that employers, subject to the Workers' Compensation Law, maintain workers' compensation coverage for their employees and maintains records relating to proof of coverage and exemption from coverage.

The Bureau of Operations Support administers the Special Disability Trust Fund, calculates and collects the assessments for the Workers' Compensation Administrative Trust Fund and the Special Disability Trust Fund, regulates individual self-insurers, and provides administrative support to the division.

The Bureau of Research and Education provides training and educational materials on the Workers' Compensation Law, responds to internal and external data requests, and administers the electronic data interchange for the bureau. The Bureau of Information Management provides and maintains information systems technology for the division. The Director's Office includes: the director, assistant director, budget personnel, policy coordinator, and administrative support for the office.

### **III. Effect of Proposed Changes:**

**Section 1.** Transfers the Division of Workers' Compensation by a type two transfer, as defined in s. 20.06(2), F.S., to the Department of Insurance effective October 1, 2001, except as otherwise provided in this section. The transfer includes all resources, data, records, property, and unexpended balances of appropriations, allocations, and other funds. No personnel are transferred to the Department of Insurance. The department is authorized to determine the number of positions needed to administer the provisions of ch. 440, F.S.; however, the number of positions may not exceed the number of positions and salary and benefits that were previously authorized for the Division of Workers' Compensation within the Department of Labor and Employment Security prior to the transfer.

The department is authorized to reassign, reorganize, or otherwise transfer those positions within the department. The department is authorized to contract with public and private entities to administer its duties related to the transfer of the division. All existing contracts of the division are transferred to the department and are subject to cancellation or renewal upon review by the department.

Four attorney positions and one administrative assistant position are transferred from the Office of the General Counsel of the Department of Labor and Employment Security to the Department of Insurance by a type two transfer.

The Office of the Judges of Compensation Claims is transferred to the Division of Administrative Hearings within the Department of Management Services by a type two transfer. Eighteen positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for coding or entering data contained within final orders issued by the judges of compensation claims, receiving and preparing docketing orders for the petitions for benefits, and financial management, accounting, and budgeting for the Office of the Judges of Compensation Claims are transferred by a type two transfer to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

In addition, effective July 1, 2001, 29 positions from the Division of Workers' Compensation are transferred from the division by a type two transfer to the Agency for Health Care Administration. However, the claims review function and the three-member panel would not be transferred to the agency and would be retained within the Department of Insurance.

The section also transfers 98 positions, related to re-employment, training, and education, obligation to rehire, and preferred worker requirements, from the Division of Workers' Compensation to the Department of Education by a type two transfer.

Except for as provided to the Agency for Health Care Administration and the Department of Education, resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and the functions of the Division of Workers' Compensation are also transferred by a type two transfer to the Department of Insurance. DOI, in consultation with DLES, shall determine the number of positions needed for administrative support of the programs within the Division of Workers' Compensation as transferred to the Department of Insurance. The number of administrative support positions determined needed may not exceed the number of administrative support positions that was authorized for DLES prior to the transfer.

For the transition period of July 1, 2001 to October 1, 2001, the Department of Labor and Employment Security shall provide the necessary administrative support to the Division of Workers' Compensation and the Office of the Judges of Compensation Claims.

Effective July 1, 2001, transfers the Unemployment Appeals Commission by a type two transfer to the Agency for Workforce Innovation.

Effective July 1, 2001, transfers the Public Employees Relations Commission by a type two transfer to the Department of Management Services.

Effective July 1, 2001, transfers the Office of Information Systems by a type two transfer to the State Technology Office. Upon completion of this transfer, the State Technology Office and the Department of Insurance shall enter into discussions to determine whether it would be technologically feasible and cost effective to separate the Workers' Compensation Integrated System (WCIS) from its current mainframe platform and transfer ownership of this system to the Department of Insurance. If the Department of Insurance ultimately determines that is technologically feasible and cost effective to transfer ownership of the WCIS from the State Technology Office to the Department of Insurance, the State Technology Office and the Department of Insurance shall jointly develop and implement a plan to transfer this system to the Department of Insurance.

Except as otherwise provided in this section, effective July 1, 2001, transfers the resources of the Office of the Secretary and Office of the Administrative Services of the DLES as support related to the receiving agencies by a type two transfer to the Agency for Workforce Innovation, the Department of Management Services, and the State Technology Office.

Effective July 1, 2001, transfers 11 positions from the Division of Workers' Compensation by a type two transfer to the Department of Business and Professional Regulation for the administration of child labor laws under chapter 450, F.S.

Effective July 1, 2001, transfers 30 positions from the Compliance and Enforcement Program and one senior attorney and one administrative secretary from DLES by a type two transfer to the Department of Business and Professional Regulation (DBPR) for the administration of migrant labor and farm labor laws under chapter 450, F.S., and related administrative support positions.

**Section 2.** This section provides for an appropriation of \$515,128 from the Workers' Compensation Administrative Trust Fund and \$184,000 from the Child Labor Trust Fund to DBPR for the administration of the child labor laws.

**Section 3.** This section provides for an appropriation to DBPR for the administration of the migrant and farm labor laws.

**Section 4.** Amends s. 20.13, F.S., to create the Division of Workers' Compensation within the Department of Insurance.

**Section 5.** Amends s. 110.205, F.S., to conform to the repeal of the Department of Labor and Employment Security.

**Section 6.** Amends s. 440.015, F.S., to amend legislative intent to reflect the transfer of responsibilities of the Division of Workers' Compensation to the Department of Insurance, the Department of Education, and the Agency for Health Care Administration.

**Section 7.** Amends s. 440.02, F.S., to revise definitions to reflect the transfer of the responsibilities of the division to the Department of Insurance, the Department of Education, and the Agency for Health Care Administration.

**Sections 8– 63.** Amends these sections to conform to the transfers made by this act. Substantive changes to these sections are summarized below.

**Section 18.** Amends s. 440.125, F.S., to authorize the Department of Insurance to share any confidential and exempt information received pursuant to s. 440.13, F.S., with the Agency for Health Care Administration in furtherance of the agencies duties under ss. 440.13 and 440.14, F.S. The agency would be required to maintain the confidentiality and exempt status of such information.

**Section 19.** Amends s. 440.13, F.S., to also require the Department of Insurance to develop reporting requirements for health care providers relating to the reporting of medical or surgical treatment and medical reports and bills in consultation with the Agency for Health Care Administration. The section is also amended to authorize the Department of Insurance to monitor and audit workers' compensation carriers to determine whether medical bills are paid in accordance with this section and the provisions of s. 624.3161, F.S., which relates to market conduct examinations of insurers. The department would also be authorized to impose a fine or otherwise discipline an employer or carrier, pursuant to ch. 440, F.S., the insurance code, or rules adopted by the department, if an employer or carrier does not comply with these provisions.

The section also provides that physicians and hospitals would be authorized to be reimbursed at the per diem rate for hospital inpatient stay. Currently, reimbursement is authorized at either the usual and customary charge for treatment, care, and attendance, the agreed upon contract price, or the maximum reimbursement allowance in the fee schedule.

**Section 22.** Amends s. 440.15, F.S., to authorize the Department of Insurance to specify by rule the form and information required to be reported by doctors certifying maximum medical improvement.

The section also eliminates the requirements that the Department of Insurance review and determine, at the carrier's or employer's request, whether the carrier has performed its duty with respect to whether any extended unemployment of an employee is a direct result of an employee's impairment.

**Section 24.** Amends s. 440.185, F.S., to authorize the agency and department, rather than the agency or department to adopt rules regarding medical record reporting requirements.

**Section 28.** Amends s. 440.20, F.S., to authorize the Department of Insurance to monitor and audit workers' compensation carriers in accordance to its market conduct examination and investigation process as provided in ss. 624.3161 and 624.317, respectively to ensure carrier compliance with the provisions of ch. 440, F.S., and the insurance code.

The department is also authorized to examine on an ongoing basis claims files of a carrier, as provided in ss. 624.3161 and 624.310, F.S. The department is authorized to impose fines or impose penalties as provided in s. 624.4211, F.S., to ensure compliance.

The section also eliminates an annual report by the Department of Insurance regarding the promptness of first payment of compensation of each carrier or self-insurer. It is anticipated that carrier compliance would be more effectively addressed through the market conduct examination process.

**Section 36.** Amends s. 440.38, F.S., to transfer certain responsibilities relating to the oversight of self-insured employers from the Division of Workers' Compensation to the Florida Workers' Compensation Self-Insurance Guaranty Association or the Department of Insurance. The section also revises qualifying security deposit requirements for self-insured employers and requires compliance with the new requirements on or before December 31, 2001, or upon the maturity of existing security deposits, whichever occurs later. The association would be required to evaluate the financial strength of applicants for membership, current and former members and make recommendations to the Department of Insurance regarding their qualifications to self-insure. The department is required to consult with the association on any recommendations before taking action.

The association is also authorized to recommend that the department require an employer to deposit with the association, rather than a depository, a qualifying deposit. The association would recommend the type and amount of the qualifying deposit and prescribe conditions for the qualifying security deposit.

The section also requires employers to provide to the association, if requested, an actuarial report providing an opinion regarding the appropriateness of the present value of the reserves for current and future compensation claims. If a member or former member refuses, the association may obtain an order from a circuit court requiring the production of such a report and be entitled to recover all reasonable costs and attorney's fees in such proceedings.

The association would recommend to the Department of Insurance that it revoke an employer's authority to self-insure, unless the employer provides the association with a certified actuarial report and qualifying security deposit meeting certain requirements. If the employer does not provide the annual actuarial report or fails to timely provide the security deposit requirements, the association would recommend and the department would revoke such employer's authority to self-insure.

In the event an individual self-insured employer ceases or suspends payment of compensation to its employees, the association would be authorized to call the qualifying security deposit to ensure payment of compensation.

The types of qualifying deposits that an employer would be required to deposit with the association are revised. Certificates of deposit, U.S. Treasury Notes and Bonds, and securities issued by the State of Florida and backed by the full faith and credit of the state are eliminated as types of qualifying security deposits due to the concern that these types of assets would be deemed general assets in the event of an employer's bankruptcy, which would prevent the

division from having a priority claim to the assets and receiving less than face value from the proceeds of the bankruptcy. Other types of acceptable securities and bonds are delineated in the section.

Currently authorized self-insured employers must comply with the revised qualifying security deposit requirements on or before December 31, 2001, or upon maturity of existing security deposits, whichever occurs later.

The bill deletes the maximum \$100 fine (“for each failure”) that applies if a self-insurer fails to file any report required by rule. As amended, the employer would be subject to a civil penalty. The bill does not state the amount of the civil penalty, which would be specified by department rule.

The section corrects statutory cross-references to reflect the transfer of the regulation of self-insurance funds from the Division of Workers' Compensation to the Department of Insurance in 1993.

**Section 37.** Amends s. 440.381, F.S., to eliminate the requirement that the Department of Insurance notify a carrier of the name of any injured worker who has not reported as earning wages on the last quarterly earnings report. Carriers have not historically requested this information.

**Section 38.** Amends s. 440.385, F.S., to provide that the activities of the association would be subject to review by the Department of Insurance and authorizes the association to enter into agreements with the State of Florida to perform specified services.

The association, as well as the department, would be authorized to audit and examine a self-insured employer to verify the financial strength of its current and former members. The association is authorized to assess the cost of an audit against the individual, self-insurer examined. The payroll records of each individual self-insurer must be open to annual inspection and audit by the association, the department, or their authorized representative, during regular business hours, and if any audit discloses a deficiency in the amount reported to the association or in the amounts paid the department by an individual self-insurer for its assessment, the department or the association may assess the cost of such audit against the individual self-insurer. However, the bill (and current law) also provides that the association may charge fees to any member to cover the actual costs of examining the financial and safety conditions of that member.

The nine-member board of directors of the association would be appointed by the Insurance Commissioner, rather than the Secretary of the Department of Labor and Employment Security. The bill provides that appointments made after March 21, 2001, shall be made by the Insurance Commissioner (however, the bill does not take effect until October 1, 2001).

Funds may be paid from the Workers' Compensation Administration Trust Fund to contract with the association to perform services required by law. However, no state funds can be allocated to the association for payment of covered claims or related expenses except those state funds

accruing to the association through the assignment of rights of an insolvent employer. The department may not levy an assessment on the association.

The department is required to review recommendations of the association concerning whether self-insured employers have the financial strength necessary to ensure the timely payment of claims and take such actions as deemed necessary to order compliance with the recommendations. The department is authorized to contract with the association to process applications for self-insurance, collect and review financial statements, collect security deposit documents and reinsurance policies, and collect all data necessary to calculate annual premiums, including individual self-insurers that are public utilities or governmental entities, and provide such premium to the department for assessment purposes. The department may also contract with the association for the audit and administration of the individual, self-insurers. The department may contract with attorneys recommended by the association for representation in any administrative or legal proceeding necessitated by the recommended regulation of the individual self-insurers.

The plan of operation of the association in effect on March 1, 2001, and approved by the Department of Labor and Employment Security shall remain in effect, but any amendments do not become effective until approved by the Department of Insurance. By January 1, 2001, the board must submit to the Department of Insurance a proposed plan of operation.

**Section 39.** Amends s. 440.386, F.S., to authorize the association or the department to initiate a delinquency proceeding against a self-insured employer. The association may also apply to the court for an order appointing a receiver and directing the receiver to liquidate the business of a domestic individual, self-insurer if such individual self-insurer is insolvent. Currently, the association may petition the department to apply to the court for such an order and upon the receipt of such order, the department must apply to the court for such order. The association would also be authorized to apply to the court for an order appointing a receiver and directing the receiver to conserve the assets within this state, of a foreign individual self-insurer, if such individual self-insurer is insolvent. Currently, the association may petition the department to apply to the court for such an order, and upon the receipt of such order, the department must apply to the court for such order.

**Section 45.** Amends s. 440.4416, F.S., to transfer the Workers' Compensation Oversight Board from the Department of Labor and Employment Security to the Department of Insurance and provides for appointments to the board by the Insurance Commissioner, the President of the Senate and the Speaker of the House of Representatives.

**Section 49.** Amends s. 440.52, F.S., to eliminate the \$100 annual registration fee required to be paid to the Division of Workers' Compensation by each insurance carrier wanting to write workers' compensation coverage in Florida.

**Section 50.** Amends s. 440.525, F.S., to eliminate the requirement that each carrier must be examined no less frequently than once every 3 years and authorize the department to examine a carrier as often as is warranted to ensure that carriers are complying with the statutory provisions.

**Section 51.** Amends s. 440.572, F.S., to revise the reporting requirements of the department to the Legislature and the Governor relating to workers' compensation injuries to allow the department to report information deemed relevant to workers' compensation, rather than specifying in statute the specific reporting requirements.

**Section 64.** Amends s. 624.3161, F.S., to expand the scope of market conduct examinations to include examinations made pursuant to the provisions of ch. 440, F.S.

**Section 67.** Amends s. 627.0915, F.S., to eliminate the discount carriers may offer employers for implementing a safety program approved by the Division of Safety (abolished in 2000) pursuant to rules adopted by the Division of Safety.

**Section 69.** Repeals s. 20.171, F.S., to abolish the Department of Labor and Employment Security.

**Section 70.** Provides that if any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of the act, which can be given effect without the invalid provision, or application, and to this end the provisions of this act are severable.

**Section 71.** Provides that to the extent there is any conflict between provisions of this bill and the provisions of SB 1926, which transfers the Office of the Judges of Compensation Claims to the Division of Administrative Hearings, the provisions of SB 1926 or similar legislation would control.

**Section 72.** Provides that except as otherwise expressly provided, this act will take effect October 1, 2001.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

To the extent certain functions within the Division of Workers' Compensation can be merged or consolidated with existing regulatory functions of the Department of Insurance due to the transfer of functions to the department, the overall administrative costs of the workers' compensation system could be reduced. By authorizing the Department of Insurance to audit workers' compensation carriers in accordance with the provisions of the insurance code, rather than ch. 440, F.S., the department would be able to streamline the examination of workers' compensation carriers into the examination process used for all other carriers.

The Division of Workers' Compensation has indicated that there are 453 positions within the division that would be authorized for the transfer to the Department of Insurance. In addition, five positions from the Office of General Counsel would be transferred by a Type Two Transfer to the Department of Insurance. The remaining positions within the division are transferred or allocated as follows:

- Division of Administrative Hearings for the Office of the Judges of Compensation Claims - 18
- Department of Education - 98
- Agency for Health Care Administration - 29
- Department of Business and Professional Regulation - 11  
(Child Labor, which is funded through the Division of Workers' Compensation)

In addition, the following programs within the department are to be transferred:

- Division of Administrative Services - 24  
(15 of the 24 are career service positions, ultimate location of all of these positions is unknown at this time)
- Public Employees Relations Commission - 40  
(to be transferred to the Department of Management Services)
- Unemployment Appeals Commission - 28  
(to be transferred to the Agency for Workforce Innovation)
- Office of the Judges of Compensation Claims - 179  
(to be transferred to the Department of Management Services)
- Farm Labor - 30  
(to be transferred to the Department of Business and Professional Regulation)

The committee substitute provides the following appropriations:

- \$515, 128 from the Workers' Compensation Trust Fund and \$184,000 from the Child Labor Trust Fund to the Department of Business and Professional Regulation for the administration of the child labor program.
- \$407,621 from the Department of Labor and Employment Security Administrative Trust Fund, \$320,000 from the Chief Registration Trust Fund, and \$1,301,272 from the General Revenue Fund to the Department of Business and Professional Regulation for the administration of the migrant labor and farm labor program.

**VI. Technical Deficiencies:**

The bill provides for the transfer and allocation of an unspecified number of support positions from within the Department of Labor and Employment Security to the Department of Insurance, the Agency for Health Care Administration, and the Department of Education, respectively. Some of the positions may not be allocated to provide support for only one program area. There are 24 positions remaining within the Department of Labor and Employment Security. However, nine of these positions appear to be management positions, since they are not career service positions. It is unclear whether the transfer would also include the management positions.

The bill provides for an appropriation from the Workers' Compensation Trust Fund, instead of the Workers' Compensation *Administration* Trust Fund to the Department of Business and Professional Regulation for the purpose of administering the child labor laws.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.