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DATE: February 27, 2002

HOUSE OF REPRESENTATIVES
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS

BILL #: CS/HB 1643
RELATING TO: Department of Labor & Employment Security
SPONSOR(S): Council for Smarter Government and Representative(s) Clarke
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 14 NAYS 0
 - (2) COUNCIL FOR SMARTER GOVERNMENT YEAS 12 NAYS 1
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This committee substitute dissolves the Department of Labor and transfers the personnel and resources of the department, by type-two transfer, to several departments.

The Division of Workers' Compensation is transferred to the Department of Insurance except:

- Those portions of the Division's Bureau of Rehabilitation and Medical Services relating to oversight of medical services in workers' compensation relations, dispute resolution, program evaluation, data management and carrier medical payments are transferred to the Agency for Health Care Administration. Those portions of the bureau relating to rehabilitation and re-employment of injured workers are transferred to the Department of Education;
- The Farm Labor and Crew Chief Office and Child Labor regulations, as well as the duties related to regulation of labor pursuant to chapter 456, F.S., are transferred to the Department of Business and Professional Regulation;
- The Office of Information Systems is transferred to the State Technology Office; and
- The Unemployment Appeals Commission is transferred to the Agency for Workforce Innovation

The resources of the Office of the Secretary and Administrative Services used to support these program elements are allocated among and transferred by type-two transfer to the recipient agencies.

There is no fiscal impact to state or local government.

The bill takes effect July 1, 2002.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Department of Labor and Employment Services

Chapter 20, F.S.

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 former is responsible for developing and enforcing policy and managing major technical problems; the latter is responsible for managing major technical problems as well as supervising the Bureau of Appeals of the Division of Unemployment Compensation. 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(5), F.S., establishes the Division of Workers' Compensation within DLES. Section 20.171(7), F.S., establishes the Unemployment Appeals Commission within DLES.

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

Chapter 440, F.S.

Chapter 440, F.S., is the "Workers' Compensation Law." This chapter specifies that the DLES and the Division of Workers' Compensation of the DLES are the primary entities involved in the application of the "Workers' Compensation Law." The Division of Workers' Compensation is given significant authority in the areas of medical records and reports, provider eligibility, independent medical examinations, patterns or practices of overutilization, utilization of expert medical advisors,

¹ 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.

auditing, removal of physicians, determination of permanent impairment and wage-loss benefits, and the education of persons through the workers' compensation system guide.

Section 440.385, F.S., creates the "Florida Self-Insurers Guaranty Association" (Association). The Association is a nonprofit corporation composed of all individual self-insurers, other than individual self-insurers which are public utilities or governmental entities, who join the Association as a condition of their authority to individually self-insure in this state. The powers and duties of the Association are exercised through a board of directors with directors appointed by the Secretary of Labor and Employment Security. The Association is granted special powers and duties over the self-insurers in order for the self-insurers to secure funds for the payment of covered claims and also to pay the reasonable costs to administer such claims. The Association also manages the insolvency fund which is created for purposes of meeting the obligations of insolvent members incurred while members of the Association.

Section 440.385(6), F.S., provides powers and duties of the DLES in regards to the Association. The DLES must notify the Association of the existence of any insolvent employer and provide the Association with a statement of the annual normal premiums of each member employer. The Association is subject to examination and regulation by the DLES.

Section 440.4416, F.S., creates the Workers' Compensation Oversight Board within the DLES. This board consists of six members selected by the Governor, two employee representatives, three members selected by the President of the Senate, and three members selected by the Speaker of the House. Each member must have knowledge of, or experience with, the workers' compensation system. The Insurance Commissioner and the Secretary of the Department of Labor and Employment Security are nonvoting, ex officio members of the board.

Section 440.45, F.S., creates the Office of the Judges of Compensation Claims within the DLES. The DLES provides administrative support as requested by the Chief Judge, but does not supervise or control the office. Section 440.49, F.S., creates the Special Disability Trust Fund. The DLES is responsible for reporting annually on the status of the Special Disability Trust Fund.

Section 440.491, F.S., deals with the reemployment of injured workers. The Division of Workers' Compensation of the DLES is involved in the reemployment of injured workers through reemployment assessments, medical care coordination, reemployment services, training and education, rehabilitation provider qualifications, and carrier practices. Section 440.59, F.S., establishes particular reporting requirements for both the DLES and the Division of Workers' Compensation as a result of their roles in the "Worker's Compensation Law."

Chapter 443, F.S.

Chapter 443, F.S., deals with unemployment compensation. Section 443.012, F.S., creates the "Unemployment Appeals Commission" within the DLES. This commission consists of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission are provided by the DLES. However, the commission is not subject to control or supervision by the DLES.

Chapter 450, F.S.

Chapter 450, F.S., deals with minority labor groups. Section 450.191, F.S., specifies the powers and duties of the Executive Office of the Governor in its relation to migrant laborers. The Executive Office of the Governor is authorized to cooperate with the farm labor office of the DLES in the recruitment and referral of migrant laborers.

Chapter 627, F.S.

Chapter 627, F.S., deals with insurance rates and contracts. Section 627.0915, F.S., references rate filings, workers' compensation, drug-free workplace, and safe employers. The Department of Insurance must approve rating plans for workers' compensation insurance. These plans must give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to rules adopted by the Division of Workers' Compensation of the DLES, or implement a safety program approved by the Division of Safety pursuant to rules adopted by the Division of Safety of the DLES, or implement both a drug-free workplace program and a safety program.

Merging Departments — Type Two Transfer

A type two transfer, defined in s. 20.06, F.S., controls in the situation where an agency, department, program, activity, function, unit, or subunit (entity) is merged into another agency or department. Under this type of agency transfer, the records, personnel, property and balance of appropriations, allocations, or other funds of the transferred entity are transferred intact to the recipient agency. The recipient agency may reorganize the transferred entity within the limitations prescribed by Chapter 20, F.S.. Section 20.06, F.S., specifically provides that the administrative rules of the transferred entity remain in effect until specifically amended or repealed in the manner provided by law and that the recipient agency be substituted as the party of record in judicial or administrative proceedings.

C. EFFECT OF PROPOSED CHANGES:

This committee substitute dissolves the Department of Labor and transfers the personnel and resources of the department, by type-two transfer, to several departments.

The Division of Workers' Compensation is transferred to the Department of Insurance except:

- Those portions of the Division's Bureau of Rehabilitation and Medical Services relating to oversight of medical services in workers' compensation relations, dispute resolution, program evaluation, data management and carrier medical payments are transferred to the Agency for Health Care Administration. Those portions of the bureau relating to rehabilitation and re-employment of injured workers are transferred to the Department of Education;
- The Farm Labor and Crew Chief Office and Child Labor regulations, as well as the duties related to regulation of labor pursuant to chapter 456, F.S., are transferred to the Department of Business and Professional Regulation;
- The Office of Information Systems is transferred to the State Technology Office; and
- The Unemployment Appeals Commission is transferred to the Agency for Workforce Innovation

The resources of the Office of the Secretary and Administrative Services used to support these program elements are allocated among and transferred by type-two transfer to the recipient agencies.

For details, see the "section-by-section analysis" below.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for the transfer of the Workers' Compensation division of DLES to several other departments. All personnel and material of the department is transferred to the recipient agencies by type-two transfers.

Subsection (1) transfers the Division of Workers' Compensation to DOI; transfers workers' compensation medical services to the Agency on Health Care Administration (ACHA); transfers workers' compensation rehabilitation and reemployment services to the Department of Education (DOE); and transfers the Office of Farm Labor and Crew Chief Office and Child Labor to the Department of Business and Professional Regulation (DBPR);

Subsection (2) transfers functions of the Office of the Secretary relating to the regulation of labor organizations and migrant and farm labor registration to DBPR;

Subsection (3) transfers other workplace regulation functions, including those under chapter 448, F.S., to the DBPR;

Subsection (4) transfers the Unemployment Appeals Commission to the Agency for Workforce Innovation (AWI);

Subsection (5) transfers the Office of Information Systems to the STO. However, the transfer of ownership of the workers' compensation data systems must be determined by the DOI to be technologically feasible and cost efficient. If so determined, then the transfer must be approved by the legislative Budget Commission.

Subsection (6) provides that certain records, property and unexpended balances of the Office of the Secretary of DLES which support the activities and functions transferred in subsection (1) to the several department and agencies are transferred to their respective department or agency;

Subsection (7) provides that DMS shall be the custodian of any property not otherwise transferred;

Subsection (8) authorizes the Department of Banking and Finance (DBF), in conjunction with the Office of the Attorney General, to use unexpended funds to settle certain claims. This is the Comptroller's constitutional duty; it is unclear why the Attorney General must be consulted prior to the settlement of claims;

Subsection (9) provides for the continuation of certain contracts or agreements of DLES. Section 20.06, F.S., provides specifically for this situation;

Subsection (10) substitutes the successor entity as a party in interest in pending proceedings. Section 20.06, F.S., provides specifically for this situation;

Subsections (11) and (12) exempt specified state agencies, on a temporary basis, from provisions relating to procurement of property and services and leasing of space. However, it is unclear why the recipient agencies must be provided this temporary exemption from procurement requirements. If it is to realign the physical location of personnel, then it would be better to make use of proviso language in the general appropriations act to preclude the expenditure of state monies on unoccupied leased real property;

Subsection (13) authorizes specified state agencies to develop temporary emergency rules relating to the implementation of this act. It is unclear why this provision is necessary. Agencies have not been required to adopt rules describing organizational structures since 1996. Any organizational changes necessary to incorporate the new activities should be directly addressed within the bill or the department should be authorized to make such organizational realignments subject to review by the Legislative Budget Commission; and

Subsection (14) authorizes the DBPR to re-organize the farm labor, child labor, and workplace regulation programs to integrate those programs into the department. Such re-organization may include

transfer of resources between services and revision of budget authority. Actions done pursuant to this subsection must be approved by the Legislative Budget Commission.

Section 2. Amends s. 20.13, F.S., to create the Division of Workers' Compensation within the Department of Insurance.

Section 3. Amends s. 20.50, F.S., which creates the Agency for Workforce Innovation (AWI), to provide authority to the Director to administer program activities received from the DLES and to revise current language the authorizes the agency to administer workforce service programs. The Unemployment Appeals Commission is created as a program within the agency.

Section 4. Amends s. 110.205, F.S., to remove a cross reference to the DLES.

Section 5. Amends s. 112.19, F.S., to correct a cross reference.

Section 6. Amends s. 112.191, F.S., to correct a cross reference.

Section 7. Amends s. 121.125, F.S., to correct a cross reference.

Section 8. Amends s. 122.03, F.S., to correct a cross reference.

Section 9. Amends s. 238.06, F.S., to correct a cross reference.

Section 10. Amends s. 440.02, F.S., to provide the term "agency" is to mean the Agency for Health Care Administration; to conform the definitions of "department" and "division" to the transfer of the Division of Workers' Compensation to the Department of Insurance; and to renumber sections.

Section 11. Amends s. 440.021, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 12. Amends s. 440.05, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 13. Amends s. 440.09, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 14. Amends s. 440.10, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 15. Amends s. 440.102, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 16. Amends s. 440.103, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 17. Amends s. 440.104, F.S., to correct a statutory cross-reference.

Section 18. Amends s. 440.105, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 19. Amends s. 440.106, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 20. Amends s. 440.107, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 21. Amends s. 440.108, F.S., to conform division references.

Section 22. Amends s. 440.12, F.S., to conform division references to reflect the transfer of the Unemployment Appeals Commission to AWI.

Section 23. Amends s. 440.125, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to DOI. Allows DOI to share confidential information with ACHA in furtherance of its official duties and requires the agency to maintain the confidential nature of the information. This change arguably expands a public records exemption provided the division by increasing the number of agencies that may make use of the exemption. The Florida Constitution requires that the creation (or in this case, expansion such that a new exemption is created for two agencies) be enacted in a separate bill. At a minimum, this provision should be rewritten to vest the Department of Insurance with the authority to implement the exemption requirements and to provide an exception to AWI and DOE to allow those agencies access to the exempted medical records in the furtherance of their duties. In the alternative, the changes proposed to this public record exemption should be pulled out of this bill and placed in a separate bill to address constitutional concerns regarding the expansion of the exemption.

Section 24. Amends s. 440.13, F.S., relating to medical services and supplies under the workers' compensation law; to reassign certain functions from the Division of Workers' Compensation to ACHA; requires DOI to consult with ACHA on treatment report format and forms and rules regarding medical reports and bills; to conform agency references to reflect the transfer of the Division of Workers' Compensation to DOI; and to provide that AHCA may impose a fine or "otherwise discipline" carriers that fail to maintain a 90 percent standard for timely payment of medical bills. However this phrase "other discipline" is not tied to any authority that limits the discretion of the agency in meting out discipline.

Section 25. Amends s. 440.134, F.S., to conform department references.

Section 26. Amends s. 440.14, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 27. Amends s. 440.15, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to DOI and to ACHA; corrects a cross reference; Deletes a section which requires carriers to investigate whether extended periods of unemployment or underemployment are still related to the workers' compensation injury.

Section 28. 440.185, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 29. Amends s. 440.191, F.S., to conform departmental references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 30. Amends s. 440.192, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 31. Amends s. 440.1925, F.S., to conform agency references to reflect the transfer of responsibility for providing an agency advisor for resolution of maximum medical improvement or permanent impairment disputes from the Division of Workers' Compensation to AHCA.

Section 32. Amends s. 440.20, F.S., relating to the time for payment of compensation and penalties for late payment; to eliminate the penalty associated with a carrier failing to pay more than 90% of compensation benefits on time; to provide that audits of payments of compensation will be made in accordance with s. 624.3161; to provide that investigations for carrier compliance will be done in accordance with 624.317; to conform references to reflect the transfer of the Division of Workers' Compensation to DOI and certain functions of the Division to DOE. The penalty provisions are now tied to the Insurance Code s. 624.4211, F.S., that gives that department the authority to suspend or revoke a license of a carrier.

Section 33. Amends s. 440.207, F.S., to conform departmental references to reflect the transfer of the Division of Workers' Compensation to DOI.

Section 34. Amends s. 440.211, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 35. Amends s. 440.24, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 36. Amends s. 440.25, F.S., to transfer the Division's authority to order an examination by an expert medical advisor from the Division of Workers' Compensation to DOI; and to correct the name of the Workers' Compensation Administration Trust Fund.

Section 37. Amends s. 440.271, F.S., to conform departmental references to reflect the transfer of the Division of Workers' Compensation to DOI.

Section 38. Amends s. 440.345, F.S., to clarify DOAH rulemaking authority for the JCC; conforms department references.

Section 39. Amends s. 440.35, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 40. Amends s. 440.38, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; and to correct the name of the American Academy of Actuaries.

Section 41. Amends s. 440.381, F.S., to delete the requirement for the Division of Workers' Compensation to collect data to identify injured workers that were not reported on Unemployment Compensation quarterly reports so that the carrier can seek reimbursement; and to conform references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 42. Amends s. 40.385, F.S., to delete obsolete language relating to the initial appointments and plan of operation of the Florida Self-Insurers Guaranty Association, Inc.; to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; to revise authority of the association to create, operate and amend a plan of operation approved by the department; and to correct the name of the American Academy of Actuaries.

Section 43. Amends s. 440.40, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 44. Amends s. 440.41, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 45. Amends s. 440.42, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 46. Amends s. 440.44, F.S., relating to the administration of the workers' compensation laws to reflect the transfer of duties under this chapter to DOI, ACHA, and DOE to conform division references; and to include DOAH as agency head of the JCC as an administrator of workers' compensation laws.

Section 47. Amends s. 440.45 to clarify DOAH rulemaking authority for the JCC.

Section 48. Amends s. 440.49, F.S., reassigning responsibility for the Preferred Worker program from DLES to DOE and DOI. Also reassigns responsibility for a report on the Special Disability Trust Fund to DOI.

Section 49. Amends s. 440.491, F.S., to conform references based on the transfer of rehabilitation and reemployment services to the DOE.

Section 50. Amends s. 440.50, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 51. Amends s. 440.51, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance..

Section 52. Amends s. 440.52, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 53. Amends s. 440.525, F.S., to conform departmental references to reflect the transfer of the Division of Workers' Compensation to DOI; to remove a requirement that the division examine each carrier to determine their compliance with the Workers' Compensation Laws once every three years; and to authorize audits as warranted.

Section 54. Amends s. 440.572, F.S., to conform division references.

Section 55. Amends s. 440.59, F.S., to delete obsolete reporting requirements concerning closed claims and all claims acted upon by the division.

Section 56. Amends s. 440.591, F.S., to provide the DOI, ACHA, and DOE with general rulemaking authority. This is existing authority tied into the powers and duties found in chapter 440, F.S.

Section 57. Amends s. 440.593, F.S., to conform agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance.

Section 58. Amends s. 443.012, F.S., creating the Unemployment Appeals Commission within AWI, rather than DLES, and to conform applicable provisions.

Section 59. Amends s. 443.036, F.S., to conform the definition of "commission" to the transfer of the Unemployment Appeals Commission to AWI.

Section 60. Amends s. 447.02, F.S., to conform the definition of "department" to the transfer of the regulation of labor organizations to DBPR.

Section 61. Amends s. 447.305, F.S., pertaining to the registration of employee organizations; requires filing with DBPR rather than DLES.

Section 62. Amends s. 450.012, F.S., to conform the definition of “department” to the transfer of the regulation of child labor to DBPR.

Section 63. Amends s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant and farm labor; to conform the departmental reference to the transfer of the regulation of farm labor to DBPR.

Section 64. Amends s. 450.28, F.S., to conform the definition of “department” to the transfer of the regulation of farm labor to DBPR.

Section 65. Amends s. 624.3161, F.S., to insert statutory cross-references and to authorize the DOI to make market conduct examinations of worker compensation carriers.

Section 66. Amends s. 626.88, F.S., to conform department references.

Section 67. Amends s.626.989, F.S., to conform department references and clarify reporting deadlines for information related to workers’ compensation coverage compliance and workers’ compensation fraud reduction.

Section 68. Amends s. 627.0915, F.S., to conform departmental references to reflect the transfer of the Division of Workers’ Compensation to the Department of Insurance.

Section 69. Amends s. 627.914, F.S., to conform department references.

Section 70. Repeals ss. 20.171, and 440.4416, F.S., which creates and defines DLES as an executive branch agency, and which creates the Workers’ Compensation Oversight Board.

Section 71. Provides a severability clause.

Section 72. Provides an effective date of July 1, 2002, unless provided otherwise.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Provision is made in the General Appropriations Act to effect the transfer of personnel and funding required of this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to expend funds or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of cities or counties to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with cities or counties.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

The bill provides for the transfer of rulemaking authority from the dissolution of DLES to the several successor agencies and provides temporary authority for these agencies to promulgate rules to implement the type two transfer. No new rulemaking authority is created in this bill.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its February 26, 2002 meeting, the Council on Smarter Government adopted three amendments to the traveling amendments and favorably reported the bill as a committee substitute. The first amendment provides the Department of Business and Professional Regulation (DBPR) authority to transfer positions received as a result of dissolution of the DLES within the department to "accomplish its workplace regulation responsibilities." The second provides that the Department of Insurance is to determine whether it is technologically feasible and cost effective to transfer ownership of workers' compensation related computer systems to the State Technology Office. The bill currently authorizes the STO to make the determination. If it is determined that such a transfer is feasible, then the transfer

request must be put before the Legislative Budget Commission for approval. The third amendment provides flexibility to the DBPR to reorganize farm labor, child labor, and workplace regulation programs received from the DLES within the department to reduce costs and increase program efficiencies. The actions of the DBPR are subject to review and approval of the Legislative Budget Commission.

At its February 19, 2002, meeting, the Committee on Transportation and Economic Development Appropriation adopted a strike-all amendment and reported the bill favorably. The amendment is traveling with the bill (and was subsequently adopted into the committee substitute by the Council for Smarter Government) and differs from the original bill as follows:

1. The bill and the amendment differ in what duties will be done at the department level rather than the division. The amendment creates a Division of Workers' Compensation, yet virtually all of the duties and receipt of reports, etc., of the current division are transferred to the Department in the amendment.
2. The amendment deletes s. 440.15(3)(b)4., F.S., which requires carriers to investigate whether extended periods of unemployment or underemployment are still related to the workers' compensation injury.
3. The amendment deletes language found in the bill in s. 440.20(15)(a), F.S., which authorizes the Department of Insurance to impose penalties upon carriers for questionable business practices.
4. The amendment does not delete the pay lag report found in s. 440.20(15)(e), F.S.
5. The amendment deletes obsolete language in s. 440.385, F.S., relating to the initial appointments and plan of operation of the Florida Self-Insurers Guaranty Association, Inc.
6. The amendment amends s. 440.44, F.S., relating to the administration of the workers' compensation laws to reflect the transfer of duties under this chapter to the Department of Insurance, the Agency for Health Care Administration, and the Department of Education.
7. The amendment amends s. 20.50, relating to the creation and organizational structure of the Agency for Workforce Innovation.
8. The amendment shortens the period of days (from 180 to 90) that emergency rules that may be promulgated to carry out the provisions of the act are valid.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Douglas Pile

Staff Director:

Elizabeth Hawkins

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AS REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Council Director:

David M. Greenbaum

Don Rubottom