

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 454

INTRODUCER: Regulated Industries Committee and Senator Atwater

SUBJECT: Employee Leasing Companies

DATE: April 8, 2008 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			BI	
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill provides that this act may be cited as the “Accurate Employment Statistics Enhancement Act.” The bill requires that employee leasing companies must submit a quarterly report to the Labor Market Statistics Center of the Agency for Workforce Innovation and specifies the information that must be contained in the report. The report must include every client establishment and each establishment of the employee leasing company.

In a traditional employee leasing arrangement, an employee leasing company will enter into an arrangement with an employer (client company) under which all or most of the client’s workforce would be employed by the leasing company and leased to the client company. The client company has a co-employment relationship with the leasing company and the employee will be leased to the client to perform the same work they previously performed as the client’s employees. Currently, employee leasing companies are responsible for providing compensation coverage for the leased employees. Workers’ compensation is an injured employee’s exclusive remedy for an employment-related injury or death.

The bill requires the leasing arrangement contract to specify whether the leasing company or the client company will provide workers’ compensation coverage for the leased employees and

requires employee leasing companies to give written notice to all leased employees whether the leasing company or the client company will cover them for workers' compensation.

Under current law, if an employee leasing company wants to end a leasing arrangement with a client company, the leasing company must provide notice of the termination of the leasing arrangement to the client company in accordance with the contractual provisions in the leasing arrangement contract. The bill requires an employee leasing company to provide notice to each leased employee when a leasing arrangement is terminated with a client company. The notification must include the date of termination of the leasing arrangement. The bill also specifies that an employee leasing company's workers' compensation coverage for the employees leased to a client company ends once the leasing arrangement between the employee leasing company and the client company is terminated and specifies when the termination of coverage is effective. If an employee leasing company and a client company do not terminate the leasing arrangement but the leasing company terminates, lays off, or puts a leased employee on a leave of absence, the bill specifies that the leasing company no longer covers the leased employee for workers' compensation and specifies when the termination of coverage is effective.

The bill provides an effective date of October 1, 2008.

This bill substantially amends the following sections of the Florida Statutes: 443.036, 443.1216, 468.525, and 468.529. This bill reenacts section 626.112, Florida Statutes.

II. Present Situation:

Background on Employee Leasing Companies

Essentially, the employment staffing industry in Florida has three basic segments:

- *Day labor and labor pools.* These entities assign their employees on a day-to-day basis to client companies (employers). They are regulated under ch. 448, F.S.
- *Temporary help firms.* These firms, which are not regulated by the state, assign their employees on a weekly, monthly, seasonal, or other basis to client companies for a period of less than one year.
- *Employee leasing companies or professional employer organizations.* These companies assign and actively co-employ their employees with a client company.

Employee leasing companies or professional employer organizations are licensed and regulated by the Board of Employee Leasing Companies (board) within the Department of Business and Professional Regulation (department) under pt. XI, ch. 468, F.S. As of February 2008, the board reports that 701 employee leasing companies hold an active license in Florida.

Section 468.520(4), F.S., defines the term "employee leasing" to mean:

an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client. The term does not include the following:

- (a) A temporary help arrangement, whereby an organization hires its own employees and assigns them to a client to support or supplement the client's workforce in special work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects.
- (b) An arrangement in which an organization employs only one category of employees and assigns them to a client to perform a function inherent to that category and which function is separate and divisible from the primary business of the client.
- (c) A facilities staffing arrangement, whereby an organization assigns its employees to staff, in whole or in part, a specific client function or functions, on an ongoing, indefinite basis, provided that the total number of individuals assigned by that organization under such arrangements comprises no more than 50 percent of the workforce at a client's worksite and provided further that no more than 20 percent of the individuals assigned to staff a particular client function were employed by the client immediately preceding the commencement of the arrangement.
- (d) An arrangement in which an organization assigns its employees only to a commonly controlled company or group of companies as defined in s. 414 of the Internal Revenue Code and in which the organization does not hold itself out to the public as an employee leasing company.
- (e) A home health agency licensed under chapter 400, unless otherwise engaged in business as an employee leasing company.
- (f) A health care services pool licensed under s. 400.980, unless otherwise engaged in business as an employee leasing company.

Generally, the employee leasing company and the client company establish a co-employer relationship by contract to the extent allowed by state law. According to the North American Industry Classification System,¹ employee leasing companies:

operate in a coemployment relationship with client businesses or organizations and are specialized in performing a wide range of human resource and personnel management duties, such as payroll accounting, payroll tax return preparation, benefits administration, recruiting, and managing labor relations. Employee leasing establishments typically acquire and lease back some or all of the employees of their clients and serve as the employer of the leased employees for payroll, benefits, and related purposes. Employee leasing establishments exercise varying degrees of decisionmaking relating to their human resource or personnel

¹ According to the U.S. Census Bureau, "on April 9, 1997, the Office of Management and Budget (OMB) announced its decision to adopt the North American Industry Classification System (NAICS pronounced Nakes) as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC)." "The system was developed by the Economic Classification Policy Committee (ECPC), on behalf of the OMB, in cooperation with Statistics Canada and Mexico's Instituto Nacional de Estadística, Geografía e Informática (INEGI) to provide comparable statistics across the three countries." <http://www.census.gov/epcd/www/naicsdev.htm> (last visited on April 5, 2008).

management role, but do not have management accountability for the work of their clients' operations with regard to strategic planning, output, or profitability. Professional employer organizations (PEO) and establishments providing labor or staff leasing services are included in this industry.²

A temporary help services company is one that is “primarily engaged in supplying workers to clients' businesses for limited periods of time to supplement the working force of the client. The individuals provided are employees of the temporary help service establishment. However, these establishments do not provide direct supervision of their employees at the clients' work sites.”³

Section 468.525(4), F.S., requires that the leasing company's contract with the client company must provide that the leasing company:

- Reserves the right of direction and control over leased employees with limited exceptions;
- Assumes the responsibility to pay wages to the leased employees;
- Assumes full responsibility for the payment of payroll taxes on leased employees; and
- Retains the authority to hire, terminate, and to discipline or reassign leased employees.

Section 468.525(4), F.S., also provides that the leasing company retains a right of control over management of safety at the worksite of the leased employees, which includes management of workers' compensation claims, claims filing, and related procedures of leased employees.

Workers' Compensation Coverage for Employee Leasing Companies

For purposes of workers' compensation insurance coverage requirements under ch. 440, F.S., the term “employer,” includes employment agencies, employee leasing companies, and similar agents who provide employees to other persons.⁴ Any person defined as an “employer” by ch. 440, F.S., is required to provide workers' compensation coverage to its employees by either securing coverage or meeting the requirements to self-insure.⁵ If the leasing company fails to provide workers' compensation coverage, the client company must provide the coverage.⁶

Sections 468.529 (1) and (2), F.S., provide that a licensed employee leasing company is the employer of the leased employees and require employee leasing companies to provide workers' compensation coverage to their employees.

Additionally, a leasing company cannot be issued a license and a current license cannot be renewed unless the leasing company can provide evidence to the Board of Employee Leasing Companies that it has paid for worker's compensation insurance.⁷ However, the rules of the

² See NAICS Code 561330, <http://www.naics.com/censusfiles/ND561330.HTM> (last visited on April 5, 2008).

³ See NAICS Code 561320, <http://www.naics.com/censusfiles/ND561320.HTM> (last visited on April 5, 2008).

⁴ Section 440.02(16)(a), F.S.

⁵ Sections 440.11(2) and 440.38(1), F.S.

⁶ Hazeleferiou v. Labor Ready, 947 So.2d 599 (Fla. 1st DCA 2007).

⁷ Section 468.529(4), F.S.

Board of Employee Leasing Companies allow, as an option, for the client company to provide and maintain the workers' compensation coverage.⁸

Section 440.10(1)(b), F.S., provides that all of the employees of a contractor or a general contractor are deemed employed in one and the same business or establishment and the contractor is liable for, and must secure, workers' compensation coverage for all employees, except for employees of a subcontractor who has provided coverage. This provision ensures that a person performing work for a contractor, even an employee of the subcontractor, is entitled to workers' compensation protection with the primary employer if the subcontractor fails to provide coverage.⁹

If the contractor does not have adequate coverage, s. 440.11(1)(a), F.S., permits the injured employee to sue the employer under either the workers' compensation law or in tort. In a tort action, the employer is barred from raising the defenses of negligence of a fellow servant, assumption of risk, or comparative negligence.

Termination of Workers' Compensation Coverage In Employee Leasing Arrangements

If an employee leasing company wants to end a leasing arrangement with a client company, the leasing company must provide notice of the termination of the leasing arrangement to the client company in accordance with the contractual provisions in the leasing arrangement contract. Florida law does not specify a notice period required for termination of a leasing arrangement.

If a leasing company and a client company agree to terminate the leasing arrangement, the leasing company must notify the workers' compensation insurance company providing workers' compensation coverage for the arrangement "prior to termination when feasible."¹⁰ If it is not feasible for the leasing company to notify the workers' compensation insurance company prior to the leasing arrangement termination, s. 627.192, F.S., requires the leasing company to notify the insurance company within five working days following actual termination of the leasing arrangement.¹¹ Each employee leasing company is also required to notify the Division of Workers' Compensation, the Division of Unemployment Compensation, and the insurer within 30 days after the initiation or termination of a client company.¹² However, this provision appears to conflict with s. 627.192, F.S., which requires an employee leasing company to provide notice to the insurer of a termination of a client within five days after the termination.

Section 468.529, F.S., requires employee leasing companies to maintain and make available to its workers' compensation insurer certain information concerning client companies and covered employees.¹³ Upon termination of an employee leasing arrangement, each employee leasing company is required to maintain and furnish to the insurer adequate information to permit the

⁸ Rule 61G7-10.0014, F.A.C.

⁹ *Gator Freightways, Inc. v. Roberts*, 550 So.2d 1117 (Fla. 1989).

¹⁰ Section 627.192(6), F.S.

¹¹ *Id.*

¹² Section 468.529(3), F.S.

¹³ *See* s. 468.529, F.S.

calculation of an experience rating modification factor¹⁴ for each lessee or client company upon the termination of the employee leasing agreement.¹⁵ The insurer is responsible for reporting to the National Council on Compensation Insurers, Inc., (NCCI) the data necessary to calculate the experience rating modifications for employers.

Workers' Compensation Immunity in Employee Leasing Scenarios

Workers' compensation is an injured employee's exclusive remedy.¹⁶ When employers properly secure workers' compensation coverage for their employees, the employers have almost total immunity from suits brought by their employees. This immunity does not apply if the employer has engaged in any intentional act that causes harm.

Statutory immunity extends to client companies who lease their workers from employee leasing companies. The fact that the employee leasing company provided workers' compensation coverage does not alter the client company's immunity status. This is because the employer in such cases will have paid a fee to the employee leasing company to provide workers' compensation coverage. If the employee is injured and receives workers' compensation benefits from the insurer for the employee leasing company, the worker cannot sue the client company in tort.¹⁷

Unemployment Compensation

Chapter 443, F.S., provides for the administration of unemployment compensation by the Agency for Workforce Innovation. Section 443.036(18), F.S., defines the term "employee leasing company to mean:

an employing unit that has a valid and active license under chapter 468 and that maintains the records required by s. 443.171(5) and, in addition, maintains a listing of the clients of the employee leasing company and of the employees, including their social security numbers, who have been assigned to work at each client company job site. Further, each client company job site must be identified by industry, products or services, and address. The client list must be provided to the tax collection service provider by June 30 and by December 31 of each year. *As used in this subsection, the term "client" means a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client.* Leased employees include employees subsequently placed on the payroll of the employee leasing company on behalf of the client. An employee leasing company must notify the tax collection service provider within

¹⁴ Pursuant to s. 627.192(2)(b), F.S., the term, "experience rating modification," means a factor applied to a premium to reflect a risk's variation from the average risk. It is determined by comparing actual losses to expected losses, using the risk's own experience.

¹⁵ Section 627.192(4), F.S.

¹⁶ Section 440.11, F.S.

¹⁷ John J. Dubreuil, *Florida Workers' Compensation Handbook*, section 3.10[3][b] (2007 Edition, 2007), citing *Maxson Const. Co., Inc. v. Welch*, 720 So.2d 588, 590 (Fla. 2d DCA 1998) and *Caramico v. Aircraft Industries, Inc.*, 727 So.2d 348, 349 (Fla. 5th DCA 1999).

30 days after the initiation or termination of the company's relationship with any client company under chapter 468. (Emphasis supplied)

Section 443.1216, F.S., provides the types of employment that are subject to ch 433, F.S. It includes services performed by the employees of an employee leasing company for a client company.

Section 443.1216(1)(a)2., provides that an employee leasing company may lease corporate officers and other workers to the client company, except as prohibited by regulations of the Internal Revenue Service. It also provides that the employees of an employee leasing company must be reported under the employee leasing company's tax identification number and contribution rate for work performed for the employee leasing company.

III. Effect of Proposed Changes:

Unemployment Compensation

The bill provides that this act may be cited as the “Accurate Employment Statistics Enhancement Act.”

Section 443.036(18), F.S., is amended to revise the definition of “employee leasing company” to provide that an employee leasing company produces the quarterly report concerning the clients and internal staff of the leasing company that is required by s. 443.1216, F.S., which is also amended by this bill to require the report and to specify the information that must be contained in that report.

The bill also amends s. 443.036(18), F.S., to delete the requirement that a leasing company maintain a listing of the clients of the employee leasing company and of the employees, including their social security numbers, who have been assigned to work at each client company job site. It deletes the requirement that each client company job site must be identified by industry, products or services, and address, and that the client list must be provided to the tax collection service provider by June 30 and December 31 of each year.

The bill also amends s. 443.036(18), F.S., to delete the provision that defines “leased employees” to include employees subsequently placed on the payroll of the employee leasing company on behalf of the client.

The bill amends s. 443.1216(1)(a)2., F.S., to require a quarterly report by employee leasing companies to the Labor Market Statistics Center of the Agency for Workforce Innovation and to specify eleven items of information that must be contained in the report. The report must include every client establishment and each establishment of the employee leasing company.

The bill requires that the leasing company submit the report electronically or in a manner otherwise prescribed by the agency in the format specified by the United States Bureau of Labor Statistics for its Multiple Worksite Report for Professional Employer Organizations. The bill provides that the report must be filed by the last day of the month immediately following the end of the calendar quarter.

The bill requires that the employment data and wage data on this report must match the employment and wages reported on the unemployment compensation quarterly tax and wage report.

The bill authorizes the Agency for Workforce Innovation to adopt rules to administer this provision and requires that the Agency for Workforce Innovation administer, collect, enforce, and waive the penalty imposed by s. 443.141(1)(b), F.S.,¹⁸ for the report required by this provision.

The bill also provides that, for the purposes of s. 443.1216(1)(a)2., F.S., the term "establishment" or "worksite" means any location where business is conducted or where services or industrial operations are performed.

Workers' Compensation Coverage for Employee Leasing Companies

Section 468.525(3)(h), F.S., is created to require each employee leasing company, regardless of the number of leased employees, to maintain a workers' compensation policy acceptable under the laws of this state at all times.

Section 468.525(3)(i), F.S., is created to require a leasing company, if its contract with a client company provides for the client company to furnish workers' compensation coverage, to require the client company to provide evidence of valid workers' compensation coverage to the employee leasing company.

Section 468.525(4)(f), F.S., is amended to require that the leasing contract specify that the employee leasing company will give written notice to all leased employees regarding whether the leasing company or the client company will provide workers' compensation coverage for the leased employees. This provision appears to conflict with s. 468.529(1), F.S., which provides that the leasing company is the employer of the leased employees and is responsible for providing workers' compensation coverage under ch. 440, F.S. However, this is consistent with the administrative rule of the Board of Employee Leasing Companies, which permits the client company to provide the workers' compensation coverage.¹⁹

Section 458.525(4)(g), F.S., is created to require that the leasing contract set forth whether the leased employees will be covered by a workers' compensation policy issued to the employee leasing company or to the client company.

¹⁸ Section 443.141(1)(b), F.S., imposes a penalty for failure to file any report required by the Agency for Workforce Innovation. It imposes a penalty of \$25 for each 30 days or fraction thereof that the employing unit is delinquent.

¹⁹ See 61G7-10.0014(2)(c), F.A.C.

Termination of Workers' Compensation Coverage In Employee Leasing Arrangements

Section 468.529(4)(a), F.S., requires that leasing companies provide notice by United States Postal Service first-class mail to each leased employee when a leasing arrangement is terminated with a client company. The notification must include the date for the termination of the leasing arrangement.

Section 468.529(4)(b), F.S., provides that a leased employee who continues in the employment of a terminated client company is not covered by the leasing company's workers' compensation coverage once the leasing arrangement between the leasing company and the client company is terminated. It specifies that the termination of coverage is effective at the earliest of:

1. Five days after the employee leasing company mails a notice of termination by United States Postal Service first-class mail to the last known address of the terminated leased employee;
2. Upon the terminated leased employee receiving actual or constructive notice that he or she is no longer an employee of the client company or employee leasing company; or
3. Receipt, with proof of delivery, by the leased employee, or receipt, with proof of delivery, at the leased employee's last known address, of notice that the individual is no longer an employee of the employee leasing company.

If a leasing company and a client company do not terminate the leasing arrangement but the leasing company terminates, lays off, or puts a leased employee on a leave of absence, s. 468.529(4)(c), F.S., provides that the leasing company no longer covers the leased employee for workers' compensation and specifies when the termination of coverage is effective. The bill's provision for when the termination of coverage is effective is comparable to the termination provision in s. 468.529(4)(b), F.S., except that it does not include the receipt by the leased employee, or at the leased employee's last known address, of the notice that the individual is no longer an employee of the employee leasing company, as provided in s. 468.529(4)(b)3., F.S.

Section 468.529(4)(d), F.S., provides that, notwithstanding any actual or constructive notice, the leased employee is no longer covered under the workers' compensation policy of the leasing company if the leased employee:

- Negotiates a paycheck marked "final paycheck" that clearly states or provides written notice that the leased employee is no longer an employee of the employee leasing company and is not covered by its workers' compensation policy;
- Receives or accepts a direct deposit of a paycheck directly from a client company that has terminated its leasing arrangement with the leasing company; or
- Is provided written notice by the client company or the employee leasing company stating that the leased employee is no longer an employee of the employee leasing company and is not covered by the employee leasing company's workers' compensation policy.

Section 468.529(5), F.S., provides that an employee leasing agreement must state whether the responsibility to obtain workers' compensation insurance coverage for leased employees is

allocated to the employee leasing company, the client company, or both. The responsibility for workers' compensation coverage must be through a master policy or multiple coordinated policy issued to the employee leasing company, a policy issued to the client company, or any other policy acceptable under Florida law.

Section 468.529(6), F.S., requires the leasing company, within 15 days of termination of the employee leasing agreement, to offer the client company an opportunity to receive records relating to the loss experience of the workers' compensation insurance that was effective during the leasing agreement.

Workers' Compensation Immunity In Employee Leasing Scenarios

Section 468.529(7), F.S., provides that the client company and the leasing company must be considered the employer for purposes of coverage under ch. 440, F.S., regardless of whether the leasing company or the client company is supplying the workers' compensation coverage. The bill specifies the leasing company and the client company are employers under s. 440.11(2), F.S., for workers' compensation coverage and that workers' compensation immunity applies to both companies if workers' compensation coverage is provided to the leased employees by the leasing company or the client company.

This provision appears to conflict with s. 468.529(1), F.S., which provides that the leasing company is the employer of the leased employees and is responsible for providing workers' compensation coverage under ch. 440, F.S.

The bill reenacts s. 626.112, F.S., relating to the license and appointment requirements for insurance agents, customer representatives, adjusters, insurance agencies, service representatives, and managing general agents, in order to incorporate the amendment to s. 468.525, F.S.

Effective Date

The bill provides an effective date of October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Some companies may have to assume the cost of providing workers' compensation insurance for employees that are leased from an employee leasing company, and for which they are not currently providing the coverage.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 468.529(7), F.S., of the bill provides that the client company and leasing company are employers for workers' compensation purposes. This provision appears to conflict with s. 468.529(1), F.S., which provides that the leasing company is the employer of the leased employee and is responsible for providing workers' compensation insurance.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries on April 8, 2008**

The committee substitute (CS) provides that this act may be cited as the "Accurate Employment Statistics Enhancement Act."

The CS amends the definition of "employee leasing company" in s. 443.036(18), F.S.

The CS amends s. 443.1216(1)(a)2., F.S., to require a quarterly report by employee leasing companies to the Labor Market Statistics Center of the Agency for Workforce Innovation and to specify the information that must be contained in the report.

The CS creates s. 468.525(3)(h), F.S., to require each employee leasing company to maintain a workers' compensation policy acceptable under the laws of this state at all times.

The CS creates s. 468.525(3)(i), F.S., to require a leasing company, if its contract with a client company provides for the client company to furnish workers' compensation

coverage, to require the client company to provide evidence of valid workers' compensation coverage to the employee leasing company.

The CS amends s. 468.529(3), F.S., to clarify that the referenced termination is of the employee leasing agreement.

The CS amends s. 468.529(4)(a), F.S., to clarify that the leasing company must send the required notice of the termination of the employee leasing agreement by United States Postal Service first-class mail.

The CS amends s. 468.529(4)(b), F.S., to provide that a leased employee who continues in the employment of a terminated client company is not covered by the leasing company's workers' compensation coverage after the termination of the employee leasing agreement.

The CS amends s. 468.529(4)(b)1., F.S., to increase from three days to five days the time within which the leasing company must give the leased employees a notice of the termination of the employee leasing agreement. It also requires that the notice be sent by United States Postal Service first-class mail.

The CS amends s. 468.529(4)(b)2., F.S., to provide that the termination of the leased employee's workers' compensation coverage may be effective upon the terminated leased employee receiving actual or constructive notice that he or she is no longer an employee of the client company or employee leasing company.

The CS creates s. 468.529(4)(b)3., F.S., to provide that the termination of the leased employee's workers' compensation coverage may be effective upon receipt, with proof of delivery, by the leased employee or at his or her last known address of notice that the individual is no longer an employee of the employee leasing company.

The CS amends s. 468.529(4)(c), F.S., to increase from three days to five days the time within which the terminated employee's workers' compensation coverage is effective. It also requires that the notice be sent by United States Postal Service first-class mail.

The CS amends s. 468.529(4)(c)2., F.S., to provide that the termination of the leased employee's workers' compensation coverage, when the leasing company continues its relationship with the client company, may be effective upon the terminated leased employee receiving actual or constructive notice that he or she is no longer an employee of the client company or employee leasing company.

The CS amends s. 468.529(4)(d), F.S., to provide that, notwithstanding any actual or constructive notice, the leased employee is no longer covered under the workers' compensation policy of the leasing company if the leased employee negotiates a paycheck marked "final paycheck" that clearly states or provides written notice that the leased employee is no longer an employee of the employee leasing company and is not covered by its workers' compensation policy. It does not provide that it is conclusive proof that the leased employee is no longer covered by the leasing company's workers'

compensation policy if he or she receives or accepts payment in cash or a paycheck which does not specify that the paycheck is issued by the leasing company. It also does not provide that any other benefit provided by the employee leasing company to its leased employees ceases upon termination of the leased employee's employment with the employee leasing company.

The CS amends s. 468.529(5), F.S., to provide that an employee leasing agreement must state whether the responsibility to obtain workers' compensation insurance coverage for leased employees is allocated to the employee leasing company, the client company, or both.

The CS amends s.468.529(6), F.S., to provide that the offer to the client company for an opportunity to receive records relating to the loss experience of the workers' compensation insurance must be made within 15 days of termination of the employee leasing agreement.

The CS amends s. 468.529(7), F.S., to provide that the client company and the leasing company must be considered the employer for purposes of coverage under ch. 440, F.S., regardless of whether the leasing company or the client company is supplying the workers' compensation coverage.

The CS does not amend s. 440.02, F.S., to include employment performed by a leased employee under ch. 468, F.S., within the definition of "employment" in the workers' compensation law.

The CS does not amend s. 440.11(2), F.S., relating to immunity from liability for employee leasing companies, temporary help services companies, and their client companies.

The CS extends the effective date from July 1, 2008 to October 1, 2008.

B. Amendments:

None.