

Amendment No.

CHAMBER ACTION

Senate

House

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1 The Conference Committee on HB 5603 offered the following:

2
3 **Conference Committee Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (h) of subsection (2) of section
6 20.121, Florida Statutes, is amended to read:

7 20.121 Department of Financial Services.—There is created
8 a Department of Financial Services.

9 (2) DIVISIONS.—The Department of Financial Services shall
10 consist of the following divisions:

11 (h) The Division of Consumer Services.

12 1. The Division of Consumer Services shall perform the
13 following functions concerning products or services regulated by
14 the department of ~~Financial Services~~ or by ~~either office of the~~
15 Office of Insurance Regulation ~~Financial Services Commission~~:

16 a. Receive inquiries and complaints from consumers.

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17 b. Prepare and disseminate such information as the
18 department deems appropriate to inform or assist consumers.

19 c. Provide direct assistance and advocacy for consumers
20 who request such assistance or advocacy.

21 d. With respect to apparent or potential violations of law
22 or applicable rules by a person or entity licensed by the
23 department or office ~~by either office of the commission~~, report
24 ~~such~~ apparent or potential violations ~~violation~~ to the office or
25 the appropriate division of the department ~~or office of the~~
26 ~~commission~~, which may take such further action as it deems
27 appropriate.

28 e. Designate an employee of the division as primary
29 contact for consumers on issues relating to sinkholes.

30 2. Any person licensed or issued a certificate of
31 authority by the department or by the Office of Insurance
32 Regulation shall respond, in writing, to the Division of
33 Consumer Services within 20 days after receipt of a written
34 request for information from the division concerning a consumer
35 complaint. The response must address the issues and allegations
36 raised in the ~~this~~ complaint. The division may, ~~in its~~
37 ~~discretion~~, impose an administrative penalty for failure to
38 comply with this subparagraph of ~~in an amount~~ up to \$2,500 per
39 violation upon any entity licensed by the department or the
40 ~~office of Insurance Regulation~~ and \$250 for the first violation,
41 \$500 for the second violation, and up to \$1,000 per violation
42 thereafter upon any individual licensed by the department or the
43 ~~office of Insurance Regulation~~.

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44 3. The department may adopt rules to administer ~~implement~~
45 ~~the provisions of~~ this paragraph.

46 4. The powers, duties, and responsibilities expressed or
47 granted in this paragraph do ~~shall~~ not limit the powers, duties,
48 and responsibilities of the Department of Financial Services,
49 the Financial Services Commission, the Office of Insurance
50 Regulation, or the Office of Financial Regulation set forth
51 elsewhere in the Florida Statutes.

52 Section 2. Subsection (5) of section 284.01, Florida
53 Statutes, is amended to read:

54 284.01 State Risk Management Trust Fund; coverages to be
55 provided.—

56 (5) Premiums charged to agencies for coverage shall be
57 adopted ~~promulgated~~ on a retrospective rating arrangement based
58 upon actual losses accruing to the fund and loss prevention
59 results, taking into account reasonable expectations,
60 maintenance, and stability of the fund and cost of reinsurance.

61 Section 3. Section 284.36, Florida Statutes, is amended to
62 read:

63 284.36 Appropriation deposits; premium payment.—Premiums
64 for coverage by the State Risk Management Trust Fund as
65 calculated on all coverages shall be billed and charged to each
66 state agency according to coverages obtained by the fund for
67 their benefit, and such obligations shall be paid promptly by
68 each agency from its operating budget upon presentation of a
69 bill therefor. After the first year of operation, premiums to be
70 charged to all departments of the state are to be computed on a
71 retrospective rating arrangement based upon actual losses

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72 accruing to the fund and loss prevention results, taking into
73 account reasonable expectations, the maintenance and stability
74 of the fund, and the cost of insurance.

75 Section 4. Subsection (1) of section 284.42, Florida
76 Statutes, is amended to read:

77 284.42 Reports on state insurance program.—

78 (1) (a) The Department of Financial Services, with the
79 Department of Management Services, shall conduct ~~make~~ an
80 analysis of the state insurance program each year and submit the
81 results on or before January 1 in a report to the Governor, the
82 President of the Senate, and the Speaker of the House of
83 Representatives annually, which shall include:

84 1.(a) Complete underwriting information as to the nature
85 of the risks accepted for self-insurance and those risks that
86 are transferred to the insurance market.

87 2.(b) The funds allocated to the Florida Casualty Risk
88 Management Trust Fund and premiums paid for insurance through
89 the market.

90 3.(e) The method of handling legal matters and the cost
91 allocated.

92 4.(d) The method and cost of handling inspection and
93 engineering of risks.

94 5.(e) The cost of risk management service purchased.

95 6.(f) The cost of managing the State Insurance Program by
96 the Department of Financial Services and the Department of
97 Management Services.

98 (b) Beginning January 1, 2012, the Division of Risk
99 Management shall include in its annual report an analysis of
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100 agency return-to-work efforts, including, but not limited to,
101 agency return-to-work program performance metrics and a status
102 report on participating return-to-work programs. The report
103 shall specify benchmarks, including, but not limited to, the
104 average lost-time claims per year, per agency; the total number
105 of lost claims; and specific agency measurable outcomes
106 indicating the change in performance from year to year.

107 Section 5. Subsections (4) and (5) are added to section
108 284.50, Florida Statutes, to read:

109 284.50 Loss prevention program; safety coordinators;
110 Interagency Advisory Council on Loss Prevention; employee
111 recognition program.—

112 (4) All agencies that are provided workers' compensation
113 insurance coverage by the State Risk Management Trust Fund that
114 employ more than 6,000 full-time employees shall establish and
115 maintain return-to-work programs for employees who are receiving
116 workers' compensation benefits. Such programs shall have the
117 primary goal of enabling injured workers to remain at work or
118 return to work to perform job duties within the physical or
119 mental functional limitations and restrictions established by
120 the workers' treating physicians. If no such limitations or
121 restrictions are established in writing by a worker's treating
122 physician, the worker shall be deemed to be able to fully
123 perform the same work duties he or she performed prior to the
124 injury.

125 (5) The Division of Risk Management shall evaluate each
126 agency's risk management programs, including, but not limited
127 to, return-to-work, safety, and loss prevention programs, at

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128 least once every 5 years. Reports, including, but not limited
129 to, any recommended corrective action, resulting from such
130 evaluations shall be provided to the head of the agency being
131 evaluated, the Chief Financial Officer, and the Director of the
132 Division of Risk Management. The agency head must provide to the
133 Division of Risk Management a response to all report
134 recommendations within 45 days and a plan to implement any
135 corrective action to be taken as part of the response. If the
136 agency disagrees with any final report recommendations,
137 including, but not limited to, any recommended corrective
138 action, or if the agency fails to implement any recommended
139 corrective action within a reasonable time, the division shall
140 submit the evaluation report to the legislative appropriations
141 committees.

142 Section 6. Paragraph (c) of subsection (12) of section
143 440.13, Florida Statutes, is amended to read:

144 440.13 Medical services and supplies; penalty for
145 violations; limitations.-

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

148 (c) As to reimbursement for a prescription medication,
149 regardless of the location or provider from which the claimant
150 receives the prescription medication, the reimbursement amount
151 for a prescription shall be the average wholesale price plus
152 \$4.18 for the dispensing fee, except when ~~where~~ the carrier has
153 contracted for a lower amount. The reimbursement amount for a
154 drug that has been repackaged or relabeled shall be calculated
155 by multiplying the number of units dispensed times the per-unit

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156 average wholesale price set by the original manufacturer of the
157 underlying drug, which shall not be the manufacturer of the
158 repackaged or relabeled drug, plus a \$4.18 dispensing fee,
159 except when the carrier has contracted for a lower amount. In no
160 case shall the repackaged or relabeled drug price exceed the
161 amount otherwise payable had the drug not been repackaged or
162 relabeled. Fees for pharmaceuticals and pharmaceutical services
163 shall be reimbursable at the applicable fee schedule amount.
164 Where the employer or carrier has contracted for such services
165 and the employee elects to obtain them through a provider not a
166 party to the contract, the carrier shall reimburse at the
167 schedule, negotiated, or contract price, whichever is lower. No
168 such contract shall rely on a provider that is not reasonably
169 accessible to the employee.

170 Section 7. Subsection (5) is added to section 440.50,
171 Florida Statutes, to read:

172 440.50 Workers' Compensation Administration Trust Fund.—

173 (5) Funds appropriated by operating appropriation or
174 nonoperating transfer from the Workers' Compensation
175 Administration Trust Fund to the Department of Education, the
176 Agency for Health Care Administration, the Department of
177 Business and Professional Regulation, the Department of
178 Management Services, the First District Court of Appeal, and the
179 Justice Administrative Commission remaining unencumbered as of
180 June 30 or undisbursed as of September 30 each year shall revert
181 to the Workers' Compensation Administration Trust Fund.

182 Section 8. This act shall take effect July 1, 2010.

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T I T L E A M E N D M E N T

Remove the entire title and insert:

A bill to be entitled

An act relating to the Department of Financial Services;
amending s. 20.121, F.S.; revising duties of the Division
of Consumer Services; amending ss. 284.01 and 284.36,
F.S.; revising criteria for premiums charged to agencies
and departments for purposes of the State Risk Management
Trust Fund; amending s. 284.42, F.S.; revising reporting
requirements on the state insurance program; requiring the
Division of Risk Management to analyze and report on
certain agency return-to-work programs and activities;
amending s. 284.50, F.S.; requiring certain agencies to
establish and maintain return-to-work programs for certain
employees; providing program goals; requiring the Division
of Risk Management to evaluate agency risk management
programs; requiring reports; requiring agencies to respond
to the division's evaluation and recommendations;
requiring the division to submit the evaluation report to
the legislative appropriations committees; amending s.
440.13, F.S.; revising requirements for determining the
amount of a reimbursement for repackaged or relabeled
prescription medication; providing limitations; amending
s. 440.50, F.S.; providing for reversion of certain
unencumbered and undisbursed funds to the Workers'

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211 Compensation Administration Trust Fund; providing an
212 effective date.