

1 A bill to be entitled
2 An act relating to the Department of Financial Services;
3 amending s. 20.121, F.S.; revising duties of the Division
4 of Consumer Services; amending ss. 284.01 and 284.36,
5 F.S.; revising criteria for premiums charged to agencies
6 and departments for purposes of the State Risk Management
7 Trust Fund; amending s. 284.42, F.S.; revising reporting
8 requirements on the state insurance program; requiring the
9 Division of Risk Management to analyze and report on
10 certain agency return-to-work programs and activities;
11 amending s. 284.50, F.S.; requiring certain agencies to
12 establish and maintain return-to-work programs for certain
13 employees; providing program goals; requiring the Division
14 of Risk Management to evaluate agency risk management
15 programs; requiring reports; requiring agencies to respond
16 to the division's evaluation and recommendations;
17 requiring the division to submit the evaluation report to
18 the legislative appropriations committees; amending s.
19 440.13, F.S.; revising requirements for determining the
20 amount of a reimbursement for repackaged or relabeled
21 prescription medication; providing limitations; amending
22 s. 440.50, F.S.; providing for reversion of certain
23 unencumbered and undisbursed funds to the Workers'
24 Compensation Administration Trust Fund; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. Paragraph (h) of subsection (2) of section
 30 20.121, Florida Statutes, is amended to read:

31 20.121 Department of Financial Services.—There is created
 32 a Department of Financial Services.

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

35 (h) The Division of Consumer Services.

36 1. The Division of Consumer Services shall perform the
 37 following functions concerning products or services regulated by
 38 the department ~~of Financial Services~~ or by ~~either office of the~~
 39 Office of Insurance Regulation ~~Financial Services Commission~~:

40 a. Receive inquiries and complaints from consumers.

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

43 c. Provide direct assistance and advocacy for consumers
 44 who request such assistance or advocacy.

45 d. With respect to apparent or potential violations of law
 46 or applicable rules by a person or entity licensed by the
 47 department or office ~~by either office of the commission~~, report
 48 ~~such~~ apparent or potential violations ~~violation~~ to the office or
 49 the appropriate division of the department ~~or office of the~~
 50 ~~commission~~, which may take such further action as it deems
 51 appropriate.

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

54 2. Any person licensed or issued a certificate of
 55 authority by the department or by the Office of Insurance
 56 Regulation shall respond, in writing, to the Division of

57 Consumer Services within 20 days after receipt of a written
 58 request for information from the division concerning a consumer
 59 complaint. The response must address the issues and allegations
 60 raised in the ~~this~~ complaint. The division may, ~~in its~~
 61 ~~discretion,~~ impose an administrative penalty for failure to
 62 comply with this subparagraph of ~~in an amount~~ up to \$2,500 per
 63 violation upon any entity licensed by the department or the
 64 office ~~of Insurance Regulation~~ and \$250 for the first violation,
 65 \$500 for the second violation, and up to \$1,000 per violation
 66 thereafter upon any individual licensed by the department or the
 67 office ~~of Insurance Regulation~~.

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

70 4. The powers, duties, and responsibilities expressed or
 71 granted in this paragraph do ~~shall~~ not limit the powers, duties,
 72 and responsibilities of the Department of Financial Services,
 73 the Financial Services Commission, the Office of Insurance
 74 Regulation, or the Office of Financial Regulation set forth
 75 elsewhere in the Florida Statutes.

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

78 284.01 State Risk Management Trust Fund; coverages to be
 79 provided.—

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

85 Section 3. Section 284.36, Florida Statutes, is amended to
 86 read:

87 284.36 Appropriation deposits; premium payment.—Premiums
 88 for coverage by the State Risk Management Trust Fund as
 89 calculated on all coverages shall be billed and charged to each
 90 state agency according to coverages obtained by the fund for
 91 their benefit, and such obligations shall be paid promptly by
 92 each agency from its operating budget upon presentation of a
 93 bill therefor. After the first year of operation, premiums to be
 94 charged to all departments of the state are to be computed on a
 95 retrospective rating arrangement based upon actual losses
 96 accruing to the fund and loss prevention results, taking into
 97 account reasonable expectations, the maintenance and stability
 98 of the fund, and the cost of insurance.

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

101 284.42 Reports on state insurance program.—

102 (1) (a) The Department of Financial Services, with the
 103 Department of Management Services, shall conduct ~~make~~ an
 104 analysis of the state insurance program each year and submit the
 105 results on or before January 1 in a report to the Governor, the
 106 President of the Senate, and the Speaker of the House of
 107 Representatives annually, which shall include:

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

111 2. (b) The funds allocated to the Florida Casualty Risk
 112 Management Trust Fund and premiums paid for insurance through

113 the market.

114 ~~3.(e)~~ The method of handling legal matters and the cost
 115 allocated.

116 ~~4.(d)~~ The method and cost of handling inspection and
 117 engineering of risks.

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

119 ~~6.(f)~~ The cost of managing the State Insurance Program by
 120 the Department of Financial Services and the Department of
 121 Management Services.

122 (b) Beginning January 1, 2012, the Division of Risk
 123 Management shall include in its annual report an analysis of
 124 agency return-to-work efforts, including, but not limited to,
 125 agency return-to-work program performance metrics and a status
 126 report on participating return-to-work programs. The report
 127 shall specify benchmarks, including, but not limited to, the
 128 average lost-time claims per year, per agency; the total number
 129 of lost claims; and specific agency measurable outcomes
 130 indicating the change in performance from year to year.

131 Section 5. Subsections (4) and (5) are added to section
 132 284.50, Florida Statutes, to read:

133 284.50 Loss prevention program; safety coordinators;
 134 Interagency Advisory Council on Loss Prevention; employee
 135 recognition program.—

136 (4) All agencies that are provided workers' compensation
 137 insurance coverage by the State Risk Management Trust Fund that
 138 employ more than 6,000 full-time employees shall establish and
 139 maintain return-to-work programs for employees who are receiving
 140 workers' compensation benefits. Such programs shall have the

141 primary goal of enabling injured workers to remain at work or
142 return to work to perform job duties within the physical or
143 mental functional limitations and restrictions established by
144 the workers' treating physicians. If no such limitations or
145 restrictions are established in writing by a worker's treating
146 physician, the worker shall be deemed to be able to fully
147 perform the same work duties he or she performed prior to the
148 injury.

149 (5) The Division of Risk Management shall evaluate each
150 agency's risk management programs, including, but not limited
151 to, return-to-work, safety, and loss prevention programs, at
152 least once every 5 years. Reports, including, but not limited
153 to, any recommended corrective action, resulting from such
154 evaluations shall be provided to the head of the agency being
155 evaluated, the Chief Financial Officer, and the Director of the
156 Division of Risk Management. The agency head must provide to the
157 Division of Risk Management a response to all report
158 recommendations within 45 days and a plan to implement any
159 corrective action to be taken as part of the response. If the
160 agency disagrees with any final report recommendations,
161 including, but not limited to, any recommended corrective
162 action, or if the agency fails to implement any recommended
163 corrective action within a reasonable time, the division shall
164 submit the evaluation report to the legislative appropriations
165 committees.

166 Section 6. Paragraph (c) of subsection (12) of section
167 440.13, Florida Statutes, is amended to read:

168 440.13 Medical services and supplies; penalty for

169 | violations; limitations.—

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

172 | (c) As to reimbursement for a prescription medication,
173 | regardless of the location or provider from which the claimant
174 | receives the prescription medication, the reimbursement amount
175 | for a prescription shall be the average wholesale price plus
176 | \$4.18 for the dispensing fee, except when ~~where~~ the carrier has
177 | contracted for a lower amount. The reimbursement amount for a
178 | drug that has been repackaged or relabeled shall be calculated
179 | by multiplying the number of units dispensed times the per-unit
180 | average wholesale price set by the original manufacturer of the
181 | underlying drug, which shall not be the manufacturer of the
182 | repackaged or relabeled drug, plus a \$4.18 dispensing fee,
183 | except when the carrier has contracted for a lower amount. In no
184 | case shall the repackaged or relabeled drug price exceed the
185 | amount otherwise payable had the drug not been repackaged or
186 | relabeled. Fees for pharmaceuticals and pharmaceutical services
187 | shall be reimbursable at the applicable fee schedule amount.
188 | Where the employer or carrier has contracted for such services
189 | and the employee elects to obtain them through a provider not a
190 | party to the contract, the carrier shall reimburse at the
191 | schedule, negotiated, or contract price, whichever is lower. No
192 | such contract shall rely on a provider that is not reasonably
193 | accessible to the employee.

194 | Section 7. Subsection (5) is added to section 440.50,
195 | Florida Statutes, to read:

196 | 440.50 Workers' Compensation Administration Trust Fund.—

197 (5) Funds appropriated by operating appropriation or
198 nonoperating transfer from the Workers' Compensation
199 Administration Trust Fund to the Department of Education, the
200 Agency for Health Care Administration, the Department of
201 Business and Professional Regulation, the Department of
202 Management Services, the First District Court of Appeal, and the
203 Justice Administrative Commission remaining unencumbered as of
204 June 30 or undisbursed as of September 30 each year shall revert
205 to the Workers' Compensation Administration Trust Fund.

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