



The Journal OF THE House of Representatives

Number 5

Wednesday, March 21, 2001

The House was called to order by the Speaker at 1:30 p.m.

Prayer

The following prayer was offered by the Reverend Michael Keith Anderson of New Jerusalem First Missionary Baptist Church of Hollywood, upon invitation of Rep. Gottlieb:

To the immutable God who answers to many voices, by many names, in many languages of those that would call upon Him from the platform of a sincere heart. In the midst of our personal challenges and our collective woes, we pause to seek the wisdom of Thy studied guidance for the improved effectiveness of our failed but well-intentioned human efforts.

Before we take our seats or ascend to our dais of duty, we approach Thee as members of humanity. And only then, we ask Thee for supplemental privilege of approaching You as Members of this great House.

We need Thee, 'ere we admit it at all, as much as a shivering body needs a coat and a hungry belly craves for a hot bowl of soup. Give us the great privilege, the private bravery to continue to call upon You when we feel that we have failed You or others or, indeed, our very selves. Be for the shivering congressman or congress, the offered overcoat and the empty but craving congress or congressman or woman, their needed bowl of soup.

Great is the music of decent humanity. Great is the orchestra of democracy called America. Great and varied are the instruments of a legislative body who must honor the time, select the chords, and collaborate on the best notes possible to offer to this nation, from this great State of Florida, a worthy composition of freedom songs published by the human spirit.

But alas, again, we must pause. For even the most skilled musicians in these most wonderful Chambers, in the company of these most gifted collaborators and composers, ring silent and insufficient without a fair and focused conductor.

Dear God, may You tap Your baton on the podium of our persons and allow the best of You to be seen and realized in the band of us. Lord, I pray for a genuinely decent Congress; a humane and decent House of Representatives is our prayer. For they are the ones in the hallmark of our surest hope for a humanelly decent America.

We thank Thee for hearing our prayer.

To the most wise God who answers by many voices, by many names, and in many languages of those who call upon Him humbly from the platform of a sincere heart, we say, Amen.

The following Members were recorded present:

Session Vote Sequence: 47

The Chair	Crow	Holloway	Paul
Alexander	Cusack	Jennings	Peterman
Andrews	Davis	Jordan	Pickens
Argenziano	Detert	Joyner	Prieguez
Arza	Diaz de la Portilla	Justice	Rich
Attkisson	Diaz-Balart	Kallinger	Richardson
Atwater	Dockery	Kendrick	Ritter
Ausley	Farkas	Kilmer	Romeo
Baker	Fasano	Kosmas	Ross
Ball	Fields	Kottkamp	Rubio
Barreiro	Fiorentino	Kravitz	Russell
Baxley	Flanagan	Kyle	Ryan
Bean	Frankel	Lacasa	Seiler
Bendross-Mindingall	Gannon	Lee	Simmons
Bennett	Garcia	Lerner	Siplin
Bense	Gardiner	Littlefield	Slosberg
Benson	Gelber	Lynn	Smith
Berfield	Gibson	Machek	Sobel
Betancourt	Goodlette	Mack	Sorensen
Bilirakis	Gottlieb	Mahon	Spratt
Bowen	Green	Mayfield	Stansel
Brown	Greenstein	Maygarden	Trovillion
Brummer	Haridopolos	McGriff	Wallace
Brutus	Harper	Meadows	Waters
Bucher	Harrell	Mealor	Weissman
Bullard	Harrington	Melvin	Wiles
Byrd	Hart	Miller	Wilson
Cantens	Henriquez	Murman	Wishner
Carassas	Heyman	Needelman	
Clarke	Hogan	Negron	

(A list of excused Members appears at the end of the *Journal*.)

A quorum was present.

Pledge

The Members, led by Katherine A. Barnhart of Palm Beach, Ashley Burton of Palmetto, Christine Suzanne Cosson of Lake Butler, Douglas Haskins of Boca Raton, Laura Christine Horne of Orange Park, Jasmyne Nicole James of Tallahassee, Jonathan Russell Kendrick and Sterling Kendrick of Carrabelle, Carolyn M. Kulb of Pensacola, Jeffrey Laman of Clermont and Camelia Sherrod of Rivera Beach, pledged allegiance to the Flag. Katherine A. Barnhart served at the invitation of Rep. Frankel. Ashley Burton served at the invitation of Rep. Flanagan. Christine Suzanne Cosson served at the invitation of Rep. Bean. Douglas Haskins served at the invitation of Rep. Mack. Laura Christine Horne served at the invitation of Rep. Hogan. Jasmyne Nicole James served at the invitation of Rep. Joyner. Jonathan Russell

Rep. Frankel for the Opponents

Questions and Debate:

2nd Reading

During second reading, up to a total of 65 minutes shall be allocated for the sponsor(s) and floor leaders to explain the bills and to ask and answer questions. From this time, the sponsor(s) shall be allowed 5 minutes to explain the bills. The floor leaders will each be allocated a total of 30 minutes for the purpose of questions and answers. Floor leaders may yield their time to other Members. All questions and answers on the bill will count against the time of the floor leader who yields to the questioner.

3rd Reading

During third reading, up to a total of 130 minutes shall be allocated for debate. From this allotted time, the sponsor(s) will have up to 5 minutes to open and 5 minutes to close. The floor leaders will each be allocated 60 minutes for the purpose of debate, and may yield their time to other Members.

No Member may be recognized for any purpose unless a floor leader yields time to that Member. It is the prerogative of the Speaker to alternately recognize each floor leader for an amount of time determined by the Speaker.

All recognitions must go through the Speaker.

Amendments: _____ Open
 _____ Structured
 X Closed

A closed condition which prohibits the offering of any Member amendments is in effect.

Technical amendments may be offered in the name of the Procedural & Redistricting Council.

Special Rule 01-08

Bill(s): HB 369 by Rep. Diaz-Balart - relating to Public Employees (or subsequent version reported by Committee/Council)

Summary: The Special Rule covers consideration of the bill on both second and third readings and includes a structured condition for consideration of amendments.

Floor Leaders:

Rep. Byrd for the Proponents
 Rep. Frankel for the Opponents

Questions and Debate:

2nd Reading

During second reading, up to a total of 130 minutes shall be allocated for the sponsor(s) and floor leaders to explain the bills and to ask and answer questions. From this time, the sponsor(s) shall be allowed 10 minutes to explain the bills. The floor leaders will each be allocated a total of 60 minutes for the purpose of questions and answers and for consideration of amendments. Floor leaders may yield their time to other Members. All questions and answers on the bill and any traveling amendments will count against the time of the floor leader who yields to the questioner.

3rd Reading

During third reading, up to a total of 135 minutes shall be allocated for debate. From this allotted time, the sponsor(s) will have up to 10 minutes to open and 5 minutes to close. The floor leaders will each be allocated 60 minutes for the purpose of debate, and may yield their time to other Members.

No Member may be recognized for any purpose unless a floor leader yields time to that Member. It is the prerogative of the Speaker to

alternately recognize each floor leader for an amount of time determined by the Speaker.

All recognitions must go through the Speaker.

Amendments: _____ Open
 X Structured
 _____ Closed

Only traveling committee amendments and amendments approved for consideration by the Procedural & Redistricting Council shall be in order. No more than six amendments, up to three for the proponents and up to three for the opponents, shall be approved for consideration.

Time for explanation, questions and answers, and closing on an amendment shall be taken from the side that is sponsoring the amendment. Time taken for debate of an amendment shall be counted against the floor leader who yields to the speaker.

Amendments must be delivered in floor-ready form to the Procedural & Redistricting Council before 10:00 a.m. on Tuesday, March 20. An amendment to the amendment or substitute amendment must be delivered to the Council before 12:30 p.m. on March 20.

Technical amendments may be offered in the name of the Procedural & Redistricting Council.

On motion by Rep. Byrd, the above report was adopted.

Motions Relating to Committee or Council References

On motion by Rep. Harper, agreed to by two-thirds vote, HB 865 was withdrawn from further consideration of the House.

On motion by Rep. Cusack, agreed to by two-thirds vote, HB 1011 was withdrawn from further consideration of the House.

On motion by Rep. Brutus, agreed to by two-thirds vote, HB 4009 was withdrawn from further consideration of the House.

Special Orders

Special Order Calendar

Bill Subject to Special Rule

CS/CS/HB 303—A bill to be entitled An act relating to relief from overcrowded schools; creating s. 235.063, F.S.; establishing the S.C.R.I.P.T. grants program for school overcrowding relief; providing a short title; providing findings, intent, and purposes; providing a definition; providing school district, parent, and Department of Education obligations; providing private school eligibility requirements; providing for the initial award, renewal, and disbursement of S.C.R.I.P.T. grants; limiting the liability of the state relating to the award or use of a S.C.R.I.P.T. grant; providing an effective date.

—was read the second time by title.

Representative(s) Bucher offered the following:

(Amendment Bar Code: 054889)

Amendment 1—On page 3, between lines 4 and 5,

insert:

However, a school shall not be considered overcrowded where the school district has a construction program fully funded to relieve overcrowding at that school within four years.

Rep. Bucher moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 48

Yeas—43

Ausley	Gelber	Kosmas	Seiler
Bendross-Mindingall	Gottlieb	Lee	Siplin
Betancourt	Greenstein	Lerner	Slosberg
Brutus	Harper	Machek	Smith
Bucher	Henriquez	McGriff	Sobel
Bullard	Heyman	Meadows	Stansel
Crow	Holloway	Peterman	Weissman
Cusack	Jennings	Richardson	Wiles
Fields	Joyner	Ritter	Wilson
Frankel	Justice	Romeo	Wishner
Gannon	Kendrick	Ryan	

Nays—74

The Chair	Byrd	Harrell	Melvin
Alexander	Cantens	Harrington	Miller
Andrews	Carassas	Hart	Murman
Arza	Clarke	Hogan	Needelman
Attkisson	Davis	Johnson	Negron
Atwater	Detert	Jordan	Paul
Baker	Diaz de la Portilla	Kallinger	Pickens
Ball	Diaz-Balart	Kilmer	Rich
Barreiro	Dockery	Kottkamp	Ross
Baxley	Farkas	Kravitz	Rubio
Bean	Fasano	Kyle	Russell
Bennett	Fiorentino	Lacasa	Simmons
Bense	Flanagan	Littlefield	Sorensen
Benson	Garcia	Lynn	Spratt
Berfield	Gardiner	Mack	Trovillion
Bilirakis	Gibson	Mahon	Wallace
Bowen	Goodlette	Mayfield	Waters
Brown	Green	Maygarden	
Brummer	Haridopolos	Mealor	

Votes after roll call:

Nays—Prieguez

Representative(s) Ryan offered the following:

(Amendment Bar Code: 362545)

Amendment 2—On page 6, line 30 to page 7, line 9, remove from the bill: all of said lines

and insert in lieu thereof: (9) *S.C.R.I.P.T. GRANT RENEWAL.*—A *S.C.R.I.P.T. grant, once awarded, shall only be renewable as long as the public school to which the grantee is assigned is an overcrowded school, the parent is a Florida resident, and the student lawfully attends an eligible private school. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent may remove the student from the private school and place the student in a public school, as provided in paragraph (4)(a) or (4)(b).*

Rep. Ryan moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 49

Yeas—43

Ausley	Gelber	Kosmas	Seiler
Bendross-Mindingall	Gottlieb	Lee	Siplin
Betancourt	Greenstein	Lerner	Slosberg
Brutus	Harper	Machek	Smith
Bucher	Henriquez	McGriff	Sobel
Bullard	Heyman	Meadows	Stansel
Crow	Holloway	Peterman	Weissman
Cusack	Jennings	Rich	Wiles
Fields	Joyner	Richardson	Wilson
Frankel	Justice	Romeo	Wishner
Gannon	Kendrick	Ryan	

Nays—72

The Chair	Brummer	Green	Mayfield
Alexander	Byrd	Haridopolos	Maygarden
Andrews	Cantens	Harrell	Mealor
Argenziano	Carassas	Harrington	Melvin
Arza	Clarke	Hart	Miller
Attkisson	Davis	Hogan	Murman
Atwater	Detert	Johnson	Needelman
Baker	Diaz de la Portilla	Jordan	Negron
Ball	Diaz-Balart	Kallinger	Paul
Baxley	Dockery	Kilmer	Ross
Bean	Farkas	Kottkamp	Rubio
Bennett	Fasano	Kravitz	Russell
Bense	Fiorentino	Kyle	Simmons
Benson	Flanagan	Lacasa	Sorensen
Berfield	Garcia	Littlefield	Spratt
Bilirakis	Gardiner	Lynn	Trovillion
Bowen	Gibson	Mack	Wallace
Brown	Goodlette	Mahon	Waters

Votes after roll call:

Nays—Prieguez

Representative(s) Gelber offered the following:

(Amendment Bar Code: 543621)

Amendment 3—On page 3, line 17 to page 6, line 15, remove from the bill: all of said lines

and insert in lieu thereof:

(c) *Opt to request, on an annual basis, a S.C.R.I.P.T. grant of \$3,000 for the student's attendance at an eligible private school of the parent's choice.*

(5) *SCHOOL DISTRICT OBLIGATIONS.*—

(a) *Each school district shall annually by February 22, for each K-12 student eligible under subsection (4) in a school that meets the definition of an overcrowded school pursuant to subsection (3), notify the parent that the school is overcrowded and provide the parent with the parental choice options for the following school year as provided in subsection (4).*

(b) *Notification shall be published on the school district web site, in area newspapers, and by written notice sent home with the student, and must include a listing of the public schools, including charter schools, within the district that do not meet the definition of an overcrowded school pursuant to subsection (3).*

(6) *PARENT OBLIGATIONS.*—

(a) *The parent shall notify the school district as to which of the options provided in subsection (4) the parent wishes to choose.*

1. *Failure of the parent to provide notification shall constitute the choice of the option provided by paragraph (4)(a).*

2. *If the parent chooses the option provided by paragraph (4)(b), the parent shall inform the school district by March 31 which public school the parent has selected, and the parent shall agree to provide any necessary transportation for the student to the selected public school.*

3. *If the parent chooses the option provided by paragraph (4)(c), the parent must:*

a. *Obtain acceptance for admission of the student to a private school eligible under subsection (7) as soon as possible, and inform the private school that the student will be using a S.C.R.I.P.T. grant; or, if the parent is unable to obtain acceptance for admission or for any reason decides not to participate in the program, notify the school district as soon as possible, so that the option in paragraph (4)(c) can be made available to another parent.*

b. *Notify the Department of Education by July 1 of the parent's request for a S.C.R.I.P.T. grant and the name and address of the selected private school.*

c. Agree to provide transportation for the student to the private school if necessary.

d. Agree that the education provided by the private school selected shall satisfy the student's full need for educational services from the student's school.

(b) After the first year of the student's attending a private school under the S.C.R.I.P.T. grants program, the parent must annually notify the Department of Education no later than July 1 if the parent intends to renew the grant according to the provisions of subsection (9) in order for the student to continue in the program, together with the name and address of the private school selected for the student for the following school year.

(7) PRIVATE SCHOOL ELIGIBILITY.—To be eligible to participate in the S.C.R.I.P.T. grant program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for one school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the S.C.R.I.P.T. grants for any quarter may be filed with the department.

(b) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the S.C.R.I.P.T. grants program.

(c) Be exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code and, in the administration of S.C.R.I.P.T. grants, not discriminate upon the basis of religious conviction, race, color, sex, national origin, or physical disability, except that the mere separation of the sexes shall not be considered discrimination.

(d) Meet state and local health and safety laws and codes.

(e) Accept S.C.R.I.P.T. grant students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(f) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent or guardian for meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.

(g) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(h) Comply with all state statutes relating to private schools.

(i) Accept as full tuition and fees the amount provided by the state for each student.

(j) Agree not to compel any student attending the private school on a S.C.R.I.P.T. grant to profess a specific ideological belief, to pray, or to worship.

(k) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any S.C.R.I.P.T. grant student.

(l) Coordinate with the local school district the locations and times for students in the private school who are participating in the S.C.R.I.P.T. grants program to take all statewide assessments pursuant to s. 229.57.

Rep. Gelber moved the adoption of the amendment.

Representative(s) Lacasa offered the following:

(Amendment Bar Code: 571107)

Substitute Amendment 3—On page 3, line 17 through page 6, line 15

remove from the bill: all of said lines

and insert in lieu thereof:

(c) Opt to request, on an annual basis, a S.C.R.I.P.T. grant of \$3,000 to assist the parent in paying for the student's attendance at an eligible private school of the parent's choice.

(5) SCHOOL DISTRICT OBLIGATIONS.—

(a) Each school district shall annually by February 22, for each K-12 student eligible under subsection (4) in a school that meets the definition of an overcrowded school pursuant to subsection (3), notify the parent that the school is overcrowded and provide the parent with the parental choice options for the following school year as provided in subsection (4).

(b) Notification shall be published on the school district web site, in area newspapers, and by written notice sent home with the student, and must include a listing of the public schools, including charter schools, within the district that do not meet the definition of an overcrowded school pursuant to subsection (3).

(6) PARENT OBLIGATIONS.—

(a) The parent shall notify the school district as to which of the options provided in subsection (4) the parent wishes to choose.

1. Failure of the parent to provide notification shall constitute the choice of the option provided by paragraph (4)(a).

2. If the parent chooses the option provided by paragraph (4)(b), the parent shall inform the school district by March 31 which public school the parent has selected, and the parent shall agree to provide any necessary transportation for the student to the selected public school.

3. If the parent chooses the option provided by paragraph (4)(c), the parent must:

a. Obtain acceptance for admission of the student to a private school eligible under subsection (7) as soon as possible, and inform the private school that the student will be using a S.C.R.I.P.T. grant; or, if the parent is unable to obtain acceptance for admission or for any reason decides not to participate in the program, notify the school district as soon as possible, so that the option in paragraph (4)(c) can be made available to another parent.

b. Notify the Department of Education by July 1 of the parent's request for a S.C.R.I.P.T. grant and the name and address of the selected private school.

c. Agree to provide transportation for the student to the private school if necessary.

d. Agree to pay any costs associated with the student's attendance at the private school that exceed the annual amount of the S.C.R.I.P.T. grant.

e. Agree that the education provided by the private school selected shall satisfy the student's full need for educational services from the student's school.

(b) After the first year of the student's attending a private school under the S.C.R.I.P.T. grants program, the parent must annually notify the Department of Education no later than July 1 if the parent intends to renew the grant according to the provisions of subsection (9) in order for the student to continue in the program, together with the name and address of the private school selected for the student for the following school year.

(7) PRIVATE SCHOOL ELIGIBILITY.—Eligibility of a private school shall be determined by the parental oversight and accountability

requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose. To be eligible to participate in the S.C.R.I.P.T. grants program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the S.C.R.I.P.T. grants funds for any school year may be filed with the department.

(b) Notify the Department of Education and the school district in the service area in which the school is located of its intent to participate in the program under this section as early as possible, but no later than July 1 preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the S.C.R.I.P.T. grants program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Comply with all state statutes applicable to the general regulation of private schools.

(f) If a S.C.R.I.P.T. grant student's parent so requests, coordinate with the local school district the locations and times for the student to take all statewide assessments pursuant to s. 229.57.

Rep. Lacasa moved the adoption of the substitute amendment, which was adopted. The vote was:

Session Vote Sequence: 50

Yeas—73

The Chair	Brummer	Harrell	Miller
Alexander	Byrd	Harrington	Murman
Allen	Cantens	Hart	Needelman
Andrews	Carassas	Johnson	Negron
Argenziano	Davis	Jordan	Paul
Arza	Detert	Kallinger	Pickens
Attkisson	Diaz de la Portilla	Kilmer	Prieguez
Atwater	Diaz-Balart	Kottkamp	Ross
Baker	Dockery	Kravitz	Rubio
Ball	Farkas	Kyle	Russell
Baxley	Fasano	Lacasa	Simmons
Bean	Fiorentino	Littlefield	Sorensen
Bennett	Flanagan	Lynn	Spratt
Bense	Garcia	Mack	Trovillion
Benson	Gardiner	Mahon	Wallace
Berfield	Gibson	Mayfield	Waters
Bilirakis	Goodlette	Maygarden	
Bowen	Green	Mealor	
Brown	Haridopolos	Melvin	

Nays—44

Ausley	Gelber	Kendrick	Ryan
Bendross-Mindingall	Gottlieb	Kosmas	Seiler
Brutus	Greenstein	Lerner	Siplin
Bucher	Harper	Machek	Slosberg
Bullard	Henriquez	McGriff	Smith
Clarke	Heyman	Meadows	Sobel
Crow	Hogan	Peterman	Stansel
Cusack	Holloway	Rich	Weissman
Fields	Jennings	Richardson	Wiles
Frankel	Joyner	Ritter	Wilson
Gannon	Justice	Romeo	Wishner

Votes after roll call:

Nays—Lee

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Bill Subject to Special Rule

CS/HB 367—A bill to be entitled An act relating to judicial nominating commissions; creating s. 43.291, F.S.; specifying membership composition and requirements of judicial nominating commissions; providing limitations; providing for terms; abolishing prior offices; providing for suspension or removal; requiring racial, ethnic, gender, and geographical diversity of commission memberships; amending s. 112.3145, F.S.; specifying members of certain judicial nominating commissions as state officers; providing severability; repealing s. 43.29, F.S., relating to judicial nominating commissions; providing an effective date.

—was read the second time by title.

On motion by Rep. Negron, under Rule 12.2(c), the following late-filed amendment was considered by the required two-thirds vote. The vote was:

Session Vote Sequence: 51

Yeas—92

The Chair	Diaz de la Portilla	Jennings	Pickens
Allen	Diaz-Balart	Johnson	Rich
Andrews	Dockery	Jordan	Richardson
Arza	Farkas	Joyner	Romeo
Atwater	Fasano	Justice	Ross
Ausley	Fields	Kendrick	Rubio
Baker	Fiorentino	Kilmer	Ryan
Ball	Flanagan	Kosmas	Seiler
Barreiro	Frankel	Kravitz	Simmons
Bean	Gannon	Kyle	Siplin
Bendross-Mindingall	Garcia	Lerner	Slosberg
Bennett	Gardiner	Littlefield	Smith
Berfield	Gelber	Lynn	Sobel
Bilirakis	Gibson	Machek	Sorensen
Brutus	Gottlieb	Mack	Spratt
Bucher	Green	Maygarden	Stansel
Bullard	Greenstein	McGriff	Trovillion
Byrd	Haridopolos	Meadows	Wallace
Carassas	Harper	Melvin	Waters
Clarke	Harrell	Murman	Weissman
Cusack	Henriquez	Needelman	Wiles
Davis	Heyman	Negron	Wilson
Detert	Holloway	Peterman	Wishner

Nays—20

Argenziano	Brummer	Hogan	Mayfield
Attkisson	Cantens	Kallinger	Mealor
Baxley	Crow	Kottkamp	Paul
Bowen	Goodlette	Lacasa	Prieguez
Brown	Harrington	Mahon	Russell

Votes after roll call:

Yeas—Alexander, Benson, Lee, Miller

Nays to Yeas—Argenziano

Representative(s) Negron offered the following:

(Amendment Bar Code: 261109)

Amendment 1—On page 1, line 19, through page 3, line 24 remove from the bill: all of said lines

and insert in lieu thereof:

Section 1. Section 43.291, Florida Statutes, is created to read:

43.291 Judicial nominating commissions.—

(1) *Each judicial nominating commission established pursuant s. 11(d), Art. V of the State Constitution shall consist of nine members, three appointed by the Governor, three appointed by the President of the Senate, three appointed by the Speaker of the House, each of whom shall be a resident of the territorial jurisdiction served by the commission to which the member is appointed. One member appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House shall be members in good standing of The Florida Bar who are actively engaged in the practice of law. The other four members shall be persons who are not current employees of a lawyer or law firm in this state nor shall such four members have ever practiced law or been members of the bar in any state of the United States or in the federal court system of the United States.*

(2)(a) *In making such appointments, the appointing authorities shall seek to ensure that the members of the commissions reflect the racial, ethnic, and gender diversity of the population within the territorial jurisdiction of the court for which nominations will be considered.*

(b) *With respect to members for judicial circuits of this state, there shall be appointed at least one commissioner from each county within the judicial circuit and such commissioner shall reside within the county from which he or she is appointed.*

(c) *With respect to members for court of appeals districts of this state, there shall be appointed at least one commissioner from each judicial circuit within the district and such commissioner shall reside within the judicial circuit from which he or she is appointed.*

(d) *With respect to members for the Supreme Court Judicial Nominating Commission, there shall be appointed at least one commissioner from each court of appeals district within the state and such commissioner shall reside within the court of appeals district from which he or she is appointed.*

(3) *No justice or judge may be a member of a judicial nominating commission. A member of a judicial nominating commission may hold public office other than judicial office. A member of a judicial nominating commission is not eligible for appointment to the state judicial office for which the commission has the authority to make nominations, either during such term of membership or for a period of 2 years thereafter. All acts of a judicial nominating commission shall be made with concurrence of a majority of its members.*

(4) *All members shall be appointed for a term to end on the date of the next general election. Terms commence upon appointment. No member may be appointed between the date of a gubernatorial election and the first Wednesday after the first Monday in January of the succeeding year. If a member is unable to complete his or her term, the appointing authority shall appoint another individual, qualified under the same subsection of this section as the member previously appointed, to fill the remainder of the member's term. For cause, a member of a judicial nominating commission may be suspended by the Governor pursuant to uniform rules of procedure established by the Executive Office of the Governor consistent with s. 7, Art. IV of the State Constitution and thereafter removed by the Senate.*

(5) *The office of any member of any judicial nominating commission appointed pursuant to s. 43.29 prior to the effective date of this act is abolished upon the effective date of this act and is replaced by those offices created pursuant to subsection (1). Any member of a judicial nominating commission who will not complete a 4-year term because of enactment of this act may be reappointed under this section.*

Rep. Negron moved the adoption of the amendment.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

THE SPEAKER IN THE CHAIR

Rep. Wiles suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 52].

The question recurred on the adoption of **Amendment 1**, which failed of adoption.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Bill Subject to Special Rule

HB 369—A bill to be entitled An act relating to public employees; renumbering parts I, II, III, IV, and V of ch. 110, F.S., as parts I, II, III, IV, and V of ch. 109 F.S.; repealing s. 110.108, F.S., relating to pilot projects for agencies seeking managerial flexibility for personnel programs, s. 110.1082, F.S., relating to use of telephone voice mail and menu options systems, s. 110.109, F.S., relating to personnel audits of agencies, and s. 110.1095, F.S., relating to training programs for supervisors and managers; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; amending and renumbering s. 110.112, F.S.; removing requirements relating to affirmative action plans, related training, and reports and reviews relating thereto; providing policy relating to use of human resources; providing for implementation of methodologies to fully utilize available human resources; providing for equal employment opportunity officers and their responsibilities; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.114, F.S.; providing for deduction of the cost of making any wage deduction requested by an employee; amending and renumbering s. 110.124, F.S.; providing that an employee who is terminated solely because of attaining age 65 may apply to the circuit court for relief if voluntary binding arbitration is not conducted; amending and renumbering s. 110.1245, F.S.; eliminating the meritorious service awards program and providing for a gain sharing program, with awards set by the Legislative Budgeting Commission; deleting certain limitations; amending and renumbering s. 110.131, F.S.; revising the time limitation on employment of other-personal-services temporary employees; requiring approval of the Governor's Office of Policy and Budget for extension of such limitation; revising exemptions from such limitation; creating s. 109.202, F.S.; providing a declaration of policy; amending and renumbering s. 110.203, F.S.; conforming definitions; revising the definition of "layoff" to include outsourcing or privatization; creating s. 109.2035, F.S.; directing the Department of Management Services, in consultation with specified entities, to develop a model civil service classification and compensation program and providing requirements with respect thereto; amending and renumbering ss. 110.211 and 110.213, F.S.; directing the department to develop uniform recruitment and selection rules to be used by employing agencies; amending and renumbering s. 110.224, F.S.; revising requirements relating to a review and performance planning system and designating such system a review and performance evaluation system; revising requirements relating to certain information furnished to employees and employee evaluation; amending and renumbering s. 110.227, F.S.; providing that a career service employee may be suspended or dismissed for reasonable cause; providing that reasonable cause shall be determined by the agency head and specifying actions included thereunder; revising certain responsibilities of agency heads; providing that rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area; providing that, for any alleged adverse agency action against an employee occurring after a specified date, the employee bears the burden of proof to establish that the agency head abused his or her discretion; providing that, effective January 1, 2002, career service employees shall serve at the pleasure of the agency head; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Division of Human Resource Management upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employee's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the division; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit

court for an order enforcing, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering s. 110.605, F.S.; deleting provisions relating to development of a program of affirmative and positive action for the Selected Exempt Service by the department; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.205, 110.219, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 447.207, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 20.22, F.S.; creating the Division of Human Resource Management in the Department of Management Services; amending s. 447.201, F.S.; revising the statement of public policy regarding public employees; amending s. 447.203, F.S.; revising definitions for purposes of part II of ch. 447, F.S., relating to public employees; repealing s. 447.203(1)(b) and (3)(h), F.S., which define the Public Employees Relations Commission and exempt its employees from the definition of "public employee," and s. 447.205, F.S., which creates the commission, effective June 30, 2002; amending s. 447.207, F.S.; transferring general powers of the commission and powers relating to collective bargaining to the division; removing certain powers relating to petitions for a declaratory statement; directing the division to provide for voluntary binding arbitration with regard to certain adverse actions and discrimination in lieu of appeals to the commission; providing that the commission shall retain certain authority until June 30, 2002; amending s. 447.208, F.S.; providing the employee's burden of proof for alleged adverse agency actions occurring on or after July 1, 2001; deleting certain commission powers regarding reduction of penalties; repealing s. 447.208, F.S., which provides procedures for appeals to the commission regarding certain adverse agency actions, and s. 447.2085, F.S., which provides for rules with respect thereto, effective January 1, 2002; amending s. 447.301, F.S.; conforming language; amending ss. 447.305, 447.307, 447.308, and 447.309, F.S.; transferring powers and duties relating to registration and certification of employee organizations and adoption of procedures relating to collective bargaining agreements from the commission to the division; increasing the registration fee; amending s. 447.403, F.S.; revising requirements and procedures relating to resolution of impasses when the Legislature is the appropriate legislative body; transferring certain duties relating thereto to the division and the appropriate legislative body; amending s. 447.4095, F.S.; conforming language; amending s. 447.501, F.S.; providing for filing of unfair labor practice complaints with a court of competent jurisdiction; providing for costs and attorney's fees; repealing s. 447.503, F.S., which provides for settling of unfair labor practices disputes by the commission; amending s. 447.5035, F.S.; providing for enforcement of division orders; repealing s. 447.504, F.S., which provides for judicial review of final orders of the commission; amending s. 447.507, F.S.; transferring powers and duties relating to enforcement of the strike prohibition from the commission to the division; removing provisions relating to termination by the commission of the employment of an employee who violates the strike prohibition; amending s. 447.607, F.S.; conforming language; amending s. 20.171, F.S.; conforming language; amending s. 39.202, F.S.; providing for access to certain records by the division; amending s. 112.044, F.S., which prohibits age discrimination against public employees; providing for court action by an aggrieved employee if voluntary binding arbitration is not conducted; amending s. 112.0455, F.S., the Drug-Free Workplace Act; providing for appeals with respect to discipline or not being hired under said act to the circuit court

rather than the commission; amending s. 112.215, F.S.; providing for appointment of members of the Deferred Compensation Advisory Council by the department rather than the commission; amending s. 112.31895, F.S.; providing for judicial review of notice of termination of an investigation in connection with the Whistle-blower's Act rather than commission review; amending s. 120.80, F.S.; conforming language; repealing s. 125.0108(2)(d), F.S., and amending ss. 376.75, 403.718, and 538.11, F.S.; removing provisions which authorize certain actions by the Department of Revenue pursuant to rules of the commission or the Career Service Commission; amending ss. 284.30 and 284.31, F.S.; conforming language; amending ss. 295.11 and 295.14, F.S.; providing that the circuit court, rather than the commission, has jurisdiction to enforce provisions relating to employment preference for veterans if voluntary binding arbitration is not conducted; amending s. 415.107, F.S.; providing for access to certain records by the division; amending s. 440.102, F.S.; conforming language; repealing ss. 944.35(3)(c) and 985.4045(1)(b), F.S., which provide that violations by Department of Corrections employees of prohibitions against malicious battery and sexual misconduct, and violations by Department of Juvenile Justice employees of the prohibition against sexual misconduct, as determined by the commission, constitute cause for dismissal; directing the Department of Management Services to coordinate a transition plan; specifying transitional powers and duties of the commission and providing that it shall cease to exist June 30, 2002; providing an appropriation; providing for budget amendments to effectuate the act; providing for rules; providing effective dates.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 343575)

Amendment 1 (with title amendment)—

Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Section 110.105, Florida Statutes, is renumbered as section 109.105, Florida Statutes.*

Section 2. Section 110.107, Florida Statutes, is renumbered as section 109.107, Florida Statutes, and amended to read:

~~109.107~~ ~~110.107~~ Definitions.—As used in this chapter, ~~the term~~:

(1) "Department" means the Department of Management Services.

(2)(3) "Furlough" means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue Estimating Conference pursuant to s. 216.136(3).

(3) "Office" means the Office of Employee Relations within the Department of Management Services.

(4)(2) "Secretary" means the Secretary of Management Services.

Section 3. *Sections 110.108 and 110.109, Florida Statutes, are repealed.*

Section 4. *Section 110.1082, Florida Statutes, is renumbered as section 109.1082, Florida Statutes.*

Section 5. Section 110.1091, Florida Statutes, is renumbered as section 109.1091, Florida Statutes, and amended to read:

~~109.1091~~ ~~110.1091~~ Program for assisting state employees; confidentiality.—~~An Each~~ employing state agency may provide a program to assist any of its state employees ~~employee~~ who ~~have~~ has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects ~~their~~ the employee's job performance, through referral for counseling, therapy, or other professional treatment. Each employing state agency may designate community diagnostic and referral resources as necessary to implement the provisions of this

section. Any communication between a state employee and personnel or service providers of a state employee assistance program relative to the employee's participation in the program shall be a confidential communication. Any routine monitoring of telephone calls by the state agency does not violate this provision. All records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. *Section 110.1095, Florida Statutes, is repealed.*

Section 7. Section 110.1099, Florida Statutes, is renumbered as section 109.1099, Florida Statutes, and amended to read:

~~109.1099~~ ~~110.1099~~ Education and training opportunities for state employees.—

(1) Education and training are an integral component in improving the delivery of services to the public. Recognizing that the application of productivity-enhancing technology and practice demand continuous educational and training opportunities, a state employee employees may be authorized to receive a fundable tuition waiver waivers on a space-available basis or a voucher vouchers to attend work-related courses at public universities. Student credit hours generated by state employee fee waivers shall be fundable credit hours.

(2) The department, in conjunction with the agencies, shall request that public universities such institutions provide evening and weekend programs for state employees. When evening and weekend training and educational programs are not available, an employee employees may be authorized to take paid time off during his or her their regular working hours for training and career development, as provided in s. 109.105(1) ~~110.105(1)~~, if such training benefits the employer as determined by that employee's agency head.

(3) An employee Employees who exhibits exhibit superior aptitude and performance may be authorized by that employee's agency head to take a paid educational leave leaves of absence for up to 1 academic year at a time, for specific approved work-related education and training.

(4) That employee Such employees must enter into a contract contracts to return to state employment for a period of time equal to the length of the leave of absence or refund salary and benefits paid during his or her their educational leave leaves of absence.

(4)(6) As a precondition to approving an employee's training request, an agency or the judicial branch may require an employee to enter into an agreement that requires the employee to reimburse the agency or judicial branch for the registration fee or similar expense for any training or training series when the cost of the fee or similar expense exceeds \$1,000 if the employee voluntarily terminates employment or is discharged for cause from the agency or judicial branch within a specified period of time not to exceed exceeding 4 years after the conclusion of the training. This subsection does not apply to any training program that an agency or the judicial branch requires an the employee to attend. An agency or the judicial branch may pay the outstanding balance then due and owing on behalf of a state employee under this subsection in connection with recruitment and hiring of such state employee.

(5) The Department of Management Services, in consultation with the agencies and, to the extent applicable, Florida's public universities postsecondary educational institutions, shall adopt rules to implement and administer this section.

Section 8. Section 110.112, Florida Statutes, is renumbered as section 109.112, Florida Statutes, and amended to read:

~~109.112~~ ~~110.112~~ Affirmative action; equal employment opportunity.—

(1) It is shall be the policy of this the state to fully utilize the rich diversity of Florida's human resources and to assist in providing the

assurance of equal employment opportunity through education and other programs of affirmative and positive action that will allow the citizens of Florida to benefit from the full utilization of all available human resources women and minorities.

(2)(a) The head of each executive agency and each state attorney and public defender shall develop and implement an affirmative action plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption.

(b) Each executive agency shall establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market, as defined by the agency. Each state attorney and public defender shall establish annual goals for ensuring full utilization of groups underrepresented in his or her workforce as compared to the relevant labor market, as defined by the state attorney or public defender. Each executive agency and each state attorney and public defender shall design the its affirmative action plan to meet the its established goals.

(c) An affirmative action-equal employment opportunity officer shall be appointed by the head of each executive agency and each state attorney and public defender. The affirmative action-equal employment opportunity officer's responsibilities shall must include determining annual goals, monitoring agency compliance, and providing consultation with to managers regarding progress, deficiencies, and appropriate corrective action.

(d) The department shall report information in its annual workforce report relating to the implementation, continuance, updating, and results of each executive agency's affirmative action plan for the previous fiscal year.

(e) The department shall provide to all supervisory personnel of the executive agencies training in the principles of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and the establishment of annual affirmative action goals. The department may contract for training services, and each participating agency shall reimburse the department for costs incurred through such contract. After the department approves the contents of the training program for the agencies, the department may delegate this training to the executive agencies.

(3) Each state attorney and public defender shall:

~~(a) Develop and implement an affirmative action plan.~~

~~(b) Establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market in this state. The state attorneys' and public defenders' affirmative action plans must be designed to meet the established goals.~~

~~(c) Appoint an affirmative action equal employment opportunity officer.~~

~~(d) report annually to the Justice Administrative Commission on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.~~

(4) The state, its agencies and officers shall ensure freedom from discrimination in employment as provided by the Florida Civil Rights Act of 1992, by s. 112.044, and by this chapter.

(5) Any individual claiming to be aggrieved by an unlawful employment practice may file a complaint with the Florida Commission on Human Relations as provided by s. 760.11(1) ~~760.10(10)~~.

(6) The department shall review and monitor executive agency actions in carrying out the rules adopted by the department pursuant to this section.

Section 9. Section 110.1127, Florida Statutes, is renumbered as section 109.1127, Florida Statutes, and subsection (1) of said section is amended to read:

~~109.1127~~ ~~110.1127~~ Employee security checks.—

(1) Each employing agency shall designate *those employee such of its positions of state employment* which, because of the special trust or responsibility or sensitive location of *those such* positions, require that persons occupying *those such* positions be subject to a security background check, including fingerprinting, as a condition of employment.

Section 10. *Section 110.1128, Florida Statutes, is renumbered as section 109.1128, Florida Statutes.*

Section 11. Section 110.113, Florida Statutes, is renumbered as section 109.113, Florida Statutes, and, effective January 1, 2002, subsection (2) of said section is amended to read:

~~109.113~~ ~~110.113~~ Pay periods for state officers and employees; salary payments by direct deposit.—

(2) As a condition of employment, a person appointed to a position in state government ~~on or after July 1, 1996~~, is required to participate in the direct deposit program pursuant to s. 17.076. ~~This subsection does not apply to persons who are in the employment of the state on July 1, 1996, and subsequently receive promotion appointments, transfers, or other changes in positions within the same personnel system after July 1, 1996.~~ An employee may request an exemption from the provisions of this subsection when such employee can demonstrate a hardship ~~or when such employee is in an other personal services position.~~

Section 12. *Sections 110.114, 110.115, 110.1155, 110.116, and 110.1165, Florida Statutes, are renumbered as sections 109.114, 109.115, 109.1155, 109.116, and 109.1165, Florida Statutes, respectively.*

Section 13. Section 110.117, Florida Statutes, is renumbered as section 109.117, Florida Statutes, and subsection (3) of said section is amended to read:

~~109.117~~ ~~110.117~~ Paid holidays.—

(3) Each full-time employee is entitled to one personal holiday each year. Each part-time employee is entitled to a personal holiday each year which shall be calculated proportionately to the personal holiday allowed to a full-time employee. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. ~~109.205(2)(d)~~ ~~110.205(2)(d)~~ are not eligible for this benefit.

Section 14. *Sections 110.118, 110.119, 110.120, 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes, are renumbered as sections 109.118, 109.119, 109.120, 109.121, 109.122, 109.1221, and 109.1225, Florida Statutes, respectively.*

Section 15. Section 110.1227, Florida Statutes, is renumbered as section 109.1227, Florida Statutes, and paragraph (c) of subsection (1) of said section is amended to read:

~~109.1227~~ ~~110.1227~~ Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(c) This act in no way affects the Department of Management Services' authority pursuant to s. ~~109.123~~ ~~110.123~~.

Section 16. Section 110.123, Florida Statutes, is renumbered as section 109.123, Florida Statutes, and paragraph (g) of subsection (3) of said section is amended to read:

~~109.123~~ ~~110.123~~ State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish uniform deductibles, copayments, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the department shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the

supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. 109.161 ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Section 17. Section 110.12312, Florida Statutes, is renumbered as section 109.12312, Florida Statutes, and amended to read:

109.12312 ~~110.12312~~ Open enrollment period for retirees.—On or after July 1, 1997, the Department of Management Services shall provide for an open enrollment period for retired state employees who want to obtain health insurance coverage under ss. 109.123 ~~110.123~~ and 109.12315 ~~110.12315~~. The options offered during the open enrollment period must provide the same health insurance coverage as the coverage provided to active employees under the same premium payment conditions in effect for covered retirees, including eligibility for health insurance subsidy payments under s. 112.363. A person who separates from employment subsequent to May 1, 1988, but whose date of retirement occurs on or after August 1, 1995, is eligible as of the first open enrollment period occurring after July 1, 1997, with an effective date of January 1, 1998, as long as the retiree's enrollment remains in effect.

Section 18. *Section 110.12315, Florida Statutes, is renumbered as section 109.12315, Florida Statutes.*

Section 19. Section 110.1232, Florida Statutes, is renumbered as section 109.1232, Florida Statutes, and amended to read:

109.1232 ~~110.1232~~ Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any provisions of law to the contrary, the Department of Management Services shall provide health insurance coverage under the state group insurance program for persons who retired before January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. 109.123 ~~110.123~~. The claims experience of this group shall be commingled with the claims experience of other members covered under s. 109.123 ~~110.123~~.

Section 20. *Sections 110.1234, 110.1238, and 110.1239, Florida Statutes, are renumbered as sections 109.1234, 109.1238, and 109.1239, Florida Statutes, respectively.*

Section 21. Section 110.124, Florida Statutes, is renumbered as section 109.124, Florida Statutes, and, effective January 1, 2002, subsections (2) and (4) of said section are amended to read:

109.124 ~~110.124~~ Termination or transfer of employees aged 65 or older.—

(2) Whenever any employee who has attained age 65 is terminated by an agency or department solely because the employee attains age 65,

the employee may apply for relief from the action to the *circuit court*, unless *voluntary binding arbitration is conducted pursuant to s. 109.240 Public Employees Relations Commission pursuant to s. 447.208*. The employee shall continue in employment pending the outcome of the case application. If the employee continues in employment following a the decision of the *court commission*, no further action shall be taken by the agency or department to terminate the employee for a period of 1 year following the date of the *court's decision of the commission* unless approved by the *court commission* upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department. *If the employee continues in employment following a decision of the voluntary binding arbitration panel, no further action shall be taken by the agency or department to terminate the employee for a period of 1 year following the date of the panel's decision unless approved by the office upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department.*

(4) If mutually agreed to by the employee and the agency or department, an employee who has attained age 65 may be reduced to a part-time position for the purpose of phasing the employee out of employment into retirement. Such an arrangement may also be required by the *court or the voluntary binding arbitration panel Public Employees Relations Commission* as part of its decision in any appeal arising out of this section. A reduction to a part-time position may be accompanied by an appropriate reduction in pay.

Section 22. Section 110.1245, Florida Statutes, is renumbered as section 109.1245, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 110.1245, F.S., for present text.)

109.1245 Savings sharing; bonus payments; other awards.—

(1)(a) *The Department of Management Services shall set policy, develop procedures, and promote a savings sharing program for an individual or group of employees who propose procedures or ideas which are adopted and which result in eliminating or reducing state expenditures, if such proposals are placed in effect and can be implemented under current statutory authority.*

(b) *Each agency head shall recommend employees individually or by group to be awarded an amount of money, which amount shall be directly related to the cost savings realized. Each proposed award and amount of money must be approved by the Legislative Budgeting Commission.*

(c) *Each state agency, unless otherwise provided by law, may participate in the program. The Chief Justice shall have the authority to establish a savings sharing program for employees of the judicial branch within the parameters established in this section. The program shall apply to all employees within the Career Service System, the Selected Exempt Service, and comparable employees within the judicial branch.*

(d) *The department and the judicial branch shall submit annually to the President of the Senate and the Speaker of the House of Representatives information that outlines each agency's level of participation in the savings sharing program. The information shall include, but is not limited to:*

1. *The number of proposals made.*
2. *The number of awards made to employees or groups for adopted proposals.*
3. *The actual cost savings realized as a result of implementing employee or group proposals.*
4. *The number of employees or groups recognized for superior accomplishments.*

(2) *In June of each year, bonuses shall be paid to employees from unused salary and expense dollars. Each agency shall develop a plan for awarding lump-sum bonuses, which plan shall be submitted to and*

approved by the Office of Policy and Budget in the Executive Office of the Governor no later than September 15 of each year. Such plan shall include, at a minimum:

(a) *A statement that bonuses shall be awarded from unused salary and expense dollars.*

(b) *A statement that all bonuses are subject to appropriation by the Legislature.*

(c) *Eligibility criteria as follows:*

1. *The employee must have been employed prior to July 1 of that fiscal year and have been continuously employed through the date of distribution.*

2. *The employee must not have been on leave without pay consecutively for 6 months or more during the fiscal year.*

3. *The employee must have had no disciplinary action during the period beginning July 1 through the date the bonus checks are distributed. Disciplinary actions include written reprimands, suspensions, dismissals, and involuntary or voluntary demotions that were associated with a disciplinary action.*

4. *The employee must have demonstrated a commitment to agency mission by reducing the burden on those served, continually improving the way business is conducted, producing results in the form of increased outputs, and working to improve processes.*

5. *The employee must have demonstrated initiative in work and exceeded normal job expectations.*

6. *The employee must have modeled the way for others by displaying agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork.*

(d) *An evaluation process of the employee's performance and eligibility to be performed no less than quarterly.*

(e) *Peer input to account for at least 40 percent of the bonus award determination.*

(f) *A division of the agency by work unit for purposes of peer input and bonus distribution.*

(g) *A limitation on bonus distributions equal to 35 percent of the agency's total authorized positions. This requirement may be waived by the Office of Policy and Budget in the Executive Office of the Governor upon a showing of exceptional circumstances.*

(3) *Each department head is authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring state employees whose service with the state has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of \$100 each plus applicable taxes.*

(4) *Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who have achieved increments of 5 years of satisfactory service in the agency or to the state, in appreciation and recognition of such service. Such awards may not cost in excess of \$50 each plus applicable taxes.*

(5) *Each department head is authorized to incur expenditures not to exceed \$100 each plus applicable taxes for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the state has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.*

Section 23. Section 110.1246, Florida Statutes, is repealed.

Section 24. Sections 110.125, 110.126, and 110.127, Florida Statutes, are renumbered as sections 109.125, 109.126, and 109.127, Florida Statutes, respectively.

Section 25. Section 110.129, Florida Statutes, is renumbered as section 109.129, Florida Statutes, and amended to read:

~~109.129~~ 109.129 Services to political subdivisions.—

(1) Upon request, the department may enter into a formal agreement with any municipality or political subdivision of the state to furnish technical assistance to improve the system or methods of personnel administration of that such municipality or political subdivision. The department shall provide such assistance within the limitations of available staff, funds, and other resources. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

(2) Technical assistance includes ~~may include~~, but is shall not be limited to, providing technical advice, written reports, or and other information or materials, which and may cover such subjects as management and personnel systems, central administrative and support services, employee training, and employee productivity.

(3) Technical assistance rendered to municipalities or political subdivisions pursuant to this section may be on a nonreimbursable basis or may be partly or wholly reimbursable based upon the extent, nature, and duration of the requested assistance; the extent of resources required; and the degree to which the assistance would be of use to other municipalities or political subdivisions of the state.

Section 26. Section 110.131, Florida Statutes, is renumbered as section 109.131, Florida Statutes, and, effective July 1, 2001, subsections (2) and (3) and paragraph (c) of subsection (6) of said section are amended to read:

109.131 ~~110.131~~ Other-personal-services temporary employment.—

(2) An agency may employ any qualified individual in other-personal-services temporary employment for 100 hours in any calendar month ~~1,040 hours within any 12-month~~ period. An extension beyond a total of 100 hours in any calendar month period ~~1,040 hours~~ within an agency for any individual requires the approval of the Governor's Office of Policy and Budget for good cause ~~agency head or a designee. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other personal-services temporary employment.~~ The time limitation established by this subsection does not apply to board members, consultants, seasonal employees, institutional clients employed as part of their rehabilitation, or bona fide, degree-seeking students in accredited secondary or postsecondary educational programs.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship shall be used for short-term tasks. Such rules shall specify the employment categories, terms, conditions, rate of pay, and frequency of other-personal-services temporary employment and the duration for which such employment may last; ~~specify criteria for approving extensions beyond the time limitation provided in subsection (2);~~ and prescribe recordkeeping and reporting requirements for other-personal-services employment.

(6)

(c) Notwithstanding the provisions of this section, the agency head or his or her designee may extend the other-personal-services employment of a health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 466, chapter 468, chapter 483, chapter 486, or chapter 490 beyond 2,080 hours per year and may employ such practitioner on an hourly or other basis.

Section 27. Section 110.151, Florida Statutes, is renumbered as section 109.151, Florida Statutes.

Section 28. Section 110.152, Florida Statutes, is renumbered as section 109.152, Florida Statutes, and subsection (4) of said section is amended to read:

109.152 ~~110.152~~ Adoption benefits for state or water management district employees; parental leave.—

(4) Any employee of the state or of a water management district who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. 109.221 ~~110.221~~.

Section 29. Section 110.15201, Florida Statutes, is renumbered as section 109.15201, Florida Statutes.

Section 30. Section 110.1521, Florida Statutes, is renumbered as section 109.1521, Florida Statutes, and amended to read:

109.1521 ~~110.1521~~ Short title.—Sections 109.1521-109.1523 ~~110.1521-110.1523~~ may be cited as the "Family Support Personnel Policies Act."

Section 31. Section 110.1522, Florida Statutes, is renumbered as section 109.1522, Florida Statutes, and amended to read:

109.1522 ~~110.1522~~ Model rule establishing family support personnel policies.—The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. 109.1521-109.1523 ~~110.1521-110.1523~~, means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Section 32. Section 110.1523, Florida Statutes, is renumbered as section 109.1523, Florida Statutes, and amended to read:

109.1523 ~~110.1523~~ Adoption of model rule.—The model rule shall be effective 20 days after having been filed with the Department of State and shall become part of the personnel rules of all applicable state agencies 150 days after the effective date of the rule to the extent that each agency does not, subsequent to such effective date, adopt a rule that sets forth the intent to specifically amend all or part of such model rule. Any employee or organization representing employees shall be considered a party for purposes of any rule required by ss. 109.1521-109.1523 ~~110.1521-110.1523~~, notwithstanding any provision of chapter 120 to the contrary.

Section 33. Section 110.161, Florida Statutes, is renumbered as section 109.161, Florida Statutes, and paragraph (a) of subsection (6) of said section is amended to read:

109.161 ~~110.161~~ State employees; pretax benefits program.—

(6) The Department of Management Services is authorized to administer the pretax benefits program established for all employees so that employees may receive benefits that are not includable in gross income under the Internal Revenue Code of 1986. The pretax benefits program:

(a) Shall allow employee contributions to premiums for the state group insurance program administered under s. 109.123 ~~110.123~~ to be paid on a pretax basis unless an employee elects not to participate.

Section 34. Section 110.171, Florida Statutes, is renumbered as section 109.171, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.171 ~~110.171~~ State employee telecommuting program.—

(2) The department shall:

(c) Identify state employees who are participating in a telecommuting program and their job classifications through the state personnel payroll information subsystem created under s. 109.116 ~~110.116~~.

Section 35. Section 110.181, Florida Statutes, is renumbered as section 109.181, Florida Statutes.

Section 36. Section 110.191, Florida Statutes, is renumbered as section 109.191, Florida Statutes, and amended to read:

109.191 ~~110.191~~ State employee leasing.—

(1) In situations where the Legislature has expressly authorized the state, an agency, or the judicial branch as defined in s. *109.203* ~~110.203~~ to lease employees, the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch may authorize any of the following actions related to such state employee leasing activities, provided that the direct cost of such actions is to be paid or reimbursed within 30 days after payment by the entity or person to whom the employees are leased:

(a) Create a separate budget entity from which leased employees shall be paid and transfer the positions authorized to be leased to that budget entity.

(b) Provide increases in the operating budget entity.

(c) Authorized lump-sum salary bonuses to leased employees; however, any lump-sum salary bonus above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(d) Approve increases in salary rate for positions which are leased; however, any salary rate above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(e) Waive any requirement for automatic salary increases which may be contained in the General Appropriations Act.

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of the state employee lease agreement are comparable as determined by the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. *109.205(2)(k)2* ~~110.205(2)(k)2~~.

Section 37. Section 110.201, Florida Statutes, is renumbered as section 109.201, Florida Statutes.

Section 38. Section 110.203, Florida Statutes, is renumbered as section 109.203, Florida Statutes, and subsections (11), (18), (19), (22), and (23) of said section are amended to read:

109.203 ~~110.203~~ Definitions.—For the purpose of this part and the personnel affairs of the state:

(11) “Pay plan” means a formal description of the philosophy, methods, procedures, and salary *schedules* ~~schedule~~ for competitively compensating employees at market-based rates for work performed.

(18) “Promotion” means the changing of the classification of an employee to a class having a higher maximum salary; or the changing of the classification of an employee to a class having the same or a lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.

(19) “Demotion” means the changing of the classification of an employee to a class having a lower maximum salary; or the changing of the classification of an employee to a class having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.

(22) “Dismissal” means a disciplinary action taken by an agency against an employee resulting in termination of his or her employment for a violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

(23) “Suspension” means a disciplinary action taken by an agency against an employee to temporarily relieve the employee of his or her

duties and place him or her on leave without pay for violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

Section 39. Effective July 1, 2001, subsections (22), (23), and (24) of section 109.203, Florida Statutes, as renumbered and amended by this act, are amended, and subsections (28) and (29) are added to said section, to read:

109.203 Definitions.—For the purpose of this part and the personnel affairs of the state:

(22) “Dismissal” means a disciplinary action taken by an agency pursuant to s. *109.227* against an employee resulting in termination of his or her employment for a violation of agency standards or for cause pursuant to s. *109.227*.

(23) “Suspension” means a disciplinary action taken by an agency pursuant to s. *109.227* against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay for violation of agency standards or for cause pursuant to s. *109.227*.

(24) “Layoff” means termination of employment due to abolishment of positions necessitated by a shortage of funds or work, or a material change in the duties or organization of an agency, including the outsourcing or privatization of an activity or function previously performed by career service employees.

(28) “Firefighter” means a firefighter certified under chapter 633.

(29) “Law enforcement or correctional officer” means a law enforcement officer, special agent, correctional officer, correctional probationer officer, or institutional security specialist required to be certified under chapter 943.

Section 40. Section 109.2035, Florida Statutes, is created to read:

109.2035 Civil service classification and compensation program.—

(1) The Department of Management Services, in consultation with the Executive Office of the Governor and the Legislature, shall develop a model civil service classification and compensation program. This model program shall be developed for use by all state agencies and shall address all career service classes.

(2) The model program shall consist of the following:

(a) A position classification system using no more than 50 occupational groups and up to a six-class series structure for each occupation within an occupational group. Additional occupational groups may be established only by the Executive Office of the Governor after consultation with the Legislature.

(b) A career service pay plan which shall provide broad, market-based salary ranges for each occupational group.

(3) The following goals shall be considered in designing and implementing the model program:

(a) The classification system must significantly reduce the need to reclassify positions due to work assignment and organizational changes by decreasing the number of classification changes required.

(b) The classification system must establish broad-based classes allowing flexibility in organizational structure and must reduce the levels of supervisory classes.

(c) The classification system and pay plan must emphasize pay administration and job performance evaluation by management rather than use of the classification system to award salary increases.

(d) The pay administration system must contain provisions to allow managers the flexibility to move employees through the pay ranges and provide for salary increase additives and lump-sum bonuses.

(4) The classification system shall be structured such that each confidential, managerial, and supervisory employee shall be included in the Selected Exempt Service, in accordance with part V of this chapter.

(5) *The Department of Management Services shall submit the proposed design of the model civil service classification and compensation program to the Executive Office of the Governor, the presiding officers of the Legislature, and the appropriate legislative fiscal and substantive standing committees on or before December 1, 2001.*

(6) *The department shall establish, by rule, guidelines with respect to, and shall delegate, where appropriate, to the employing agencies the authority to administer, the following:*

- (a) *Shift differentials.*
- (b) *On-call fees.*
- (c) *Hazardous-duty pay.*
- (d) *Advanced appointment rates.*
- (e) *Salary increase and decrease corrections.*
- (f) *Lead worker pay.*
- (g) *Temporary special duties pay.*
- (h) *Trainer additive pay.*
- (i) *Competitive area differentials.*
- (j) *Coordinator pay.*
- (k) *Critical market pay.*

The employing agency must use such pay additives as are appropriate within the guidelines established by the department and shall advise the department in writing of the plan for implementing such pay additives prior to the implementation date. Any action by an employing agency to implement temporary special duties pay, competitive area differentials, or critical market pay may be implemented only after the department has reviewed and recommended such action; however, an employing agency may use temporary special duties pay for up to 3 months without prior review by the department. The department shall annually provide a summary report of the pay additives implemented pursuant to this section.

Section 41. Section 110.205, Florida Statutes, is renumbered as section 109.205, Florida Statutes, and paragraphs (h) and (u) of subsection (2) and subsection (3) of said section are amended, and, effective July 1, 2001, paragraphs (v) and (w) are added to subsection (2) and subsection (7) is added to said section, and, effective June 30, 2002, paragraph (m) of subsection (2) of said section is amended, to read:

~~109.205~~ ~~110.205~~ Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(h) All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. 109.131 ~~110.131~~.

(m)1.a. In addition to those positions exempted by other paragraphs of this subsection, each department head may designate a maximum of 20 policymaking or managerial positions, as defined by the department and approved by the Administration Commission, as being exempt from the Career Service System. Career service employees who occupy a position designated as a position in the Selected Exempt Service under this paragraph shall have the right to remain in the Career Service System by opting to serve in a position not exempted by the employing agency. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service; provided, however, that if the agency head determines that the general counsel, chief Cabinet aide, public

information administrator or comparable position for a Cabinet officer, inspector general, or legislative affairs director has both policymaking and managerial responsibilities and if the department determines that any such position has both policymaking and managerial responsibilities, the salary and benefits for each such position shall be established by the department in accordance with the rules of the Senior Management Service.

b. In addition, each department may designate one additional position in the Senior Management Service if that position reports directly to the agency head or to a position in the Senior Management Service and if any additional costs are absorbed from the existing budget of that department.

2. If otherwise exempt, employees of ~~the Public Employees Relations Commission, the Commission on Human Relations, and the Unemployment Appeals Commission~~, upon the certification of their respective commission heads, may be provided for under this paragraph as members of the Senior Management Service, if otherwise qualified. ~~However, the deputy general counsels of the Public Employees Relations Commission shall be compensated as members of the Selected Exempt Service.~~

(u) Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. 109.191 ~~110.191~~.

(v) *Managerial employees, as defined in s. 447.203(4), confidential employees, as defined in s. 447.203(5), and supervisory employees who spend the majority of their time communicating with, motivating, training, and evaluating employees, and planning and directing employees' work, and who have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline subordinate employees or effectively recommend such action, including all employees serving as supervisors, administrators, and directors, except employees also designated as special risk or special risk administrative support. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.*

(w) *Any employee exempted and moved to the Selected Exempt Service by way of a collective bargaining agreement.*

(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—Employees of the Department of Law Enforcement shall be subject to the provisions of s. 109.227 ~~110.227~~, except in matters relating to transfer.

(7) *If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service, all of the employee's unused annual leave and unused sick leave shall carry forward with the employee and shall not be paid out.*

Section 42. *Sections 110.207, 110.209, and 110.21, Florida Statutes, are renumbered as sections 109.207, 109.209, and 109.21, Florida Statutes, respectively.*

Section 43. *Effective June 30, 2002, sections 109.207 and 109.209, Florida Statutes, are repealed.*

Section 44. Section 110.211, Florida Statutes, is renumbered as section 109.211, Florida Statutes, and amended to read:

~~109.211~~ ~~110.211~~ Recruitment.—

(1) Recruiting shall be planned and carried out in a manner that assures open competition based upon current and projected employing agency needs, taking into consideration the number and types of positions to be filled and the labor market conditions, with special emphasis placed on recruiting efforts to attract minorities, women, or other groups that are underrepresented in the workforce of the employing agency.

(2) Recruiting efforts to fill current or projected vacancies shall be carried out in the sound discretion of the agency head ~~the responsibility of the employing agency.~~

(3) *Recruiting shall provide efficiency in advertising and may be assisted by a contracted vendor responsible for maintenance of the personnel data. The department shall provide for executive level recruitment and a recruitment enhancement program designed to encourage individuals to seek employment with state government and to promote better public understanding of the state as an employer.*

(4) ~~An application for a publicly announced vacancy must be made directly to the employing agency.~~

(4)(5) All recruitment literature printed after July 1, 1979, involving state position vacancies shall contain the phrase "An Equal Opportunity Employer/Affirmative Action Employer."

(6) ~~The department shall develop model recruitment rules which may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt recruitment rules that are inconsistent with the model rules must consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 45. Section 110.213, Florida Statutes, is renumbered as section 109.213, Florida Statutes, and amended to read:

~~109.213 110.213~~ Selection.—

(1) ~~The department shall have the responsibility for determining guidelines for selection procedures to be utilized by the employing agencies.~~

(2) ~~Any selection procedure utilized in state employment shall be designed to provide maximum validity, reliability, and objectivity; shall be based on adequate job analysis to ensure job relatedness; and shall measure the relative ability, knowledge, and skill needed for entry to a job.~~

(1)(3) Selection for appointment from among the most qualified candidates available eligible shall be the sole responsibility of the employing agency.

(2) *Selection shall reflect efficiency and simplicity in hiring procedures. The agency head or his or her designee shall be required to document the qualifications of the selected candidate to ensure that the candidate meets the minimum qualifications and possesses the requisite knowledge, skills, and abilities for the position. No other documentation or justification shall be required prior to selecting a candidate for a position.*

(4) ~~The department shall develop model selection rules that may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt selection rules that are inconsistent with the model rules shall consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 46. Sections 110.2135, 110.215, and 110.217, Florida Statutes, are renumbered as sections 109.2135, 109.215, and 109.217, Florida Statutes, respectively.

Section 47. Section 110.219, Florida Statutes, is renumbered as section 109.219, Florida Statutes, paragraph (c) of subsection (5) of said section is amended, and subsections (6) and (7) are added to said section, to read:

~~109.219 110.219~~ Attendance and leave; general policies.—

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(c) Holidays as provided in s. 109.117 ~~110.117~~.

(6) *The leave benefits provided to Senior Management Service employees shall not exceed those provided to employees in the Selected Exempt Service.*

(7) *Each December, a career service employee shall be entitled, subject to available funds, to a payout of up to 24 hours of unused annual leave as follows:*

(a) *An employee must have an annual leave balance of no less than 24 hours, after the payout, in order to qualify for this benefit.*

(b) *No employee shall receive a payout of greater than 240 hours over the course of the employee's career with the state, including any leave received at the time of separation.*

Section 48. Section 110.221, Florida Statutes, is renumbered as section 109.221, Florida Statutes.

Section 49. Section 110.224, Florida Statutes, is renumbered as section 109.224, Florida Statutes, and amended to read:

~~109.224 110.224~~ Review and performance evaluation planning system.—A review and performance evaluation planning system shall be established as a basis to evaluate and improve for improving the performance of the state's workforce, to provide documentation in support of recommendations for salary increases, promotions, demotions, reassignments, or dismissals; to inform employees of strong and weak points in the employee's performance, to identify improvements expected, and current and future training needs, and to award lump-sum bonuses in accordance with s. 109.1245(2); and to assist in determining the order of layoff and reemployment.

(1) Upon original appointment, promotion, demotion, or reassignment, a job description of the position assigned each career service employee must be made available to the career service employee given a statement of the work expectations and performance standards applicable to the position. The job description may be made available in an electronic format. statement may be included in the position description or in a separate document. An employee will not be required to meet work expectations or performance standards that have not been furnished in writing to the employee.

(2) Each employee must have a employee's performance evaluation must be reviewed at least annually, and the employee must receive a copy an oral and written assessment of his or her performance evaluation. The performance evaluation assessment may include a plan of corrective action for improvement of the employee's performance based on the work expectations or performance standards applicable to the position as determined by the agency head.

(3) The department may adopt rules to administer the review and performance evaluation planning system which establish procedures for performance evaluation, procedures to be followed in case of failure to meet performance standards, review periods, and forms.

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and, effective July 1, 2001, subsections (1), (2), and (3) and paragraph (a) of subsection (5) of said section are amended, present subsections (6) and (7) are amended and renumbered, and a new subsection (6) is added to said section, and, effective January 1, 2002, subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

~~109.227 110.227~~ Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(1) Any employee other than a law enforcement or correctional officer or a firefighter who has permanent status in the career service may only be suspended or dismissed for reasonable cause. Reasonable cause shall be a determination made within the sound discretion of the agency head and includes include, but is not be limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime

involving moral turpitude. A law enforcement or correctional officer or a firefighter who has permanent status in the career service may only be suspended or dismissed for just cause. The ~~Each~~ agency head shall ensure that all employees of the agency have reasonable access to the agency's personnel manual ~~are completely familiar with the agency's established procedures on disciplinary actions and grievances.~~

(2) The department shall establish rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees in the career service. *Except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff procedures shall not include any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but already occupied by an employee of less seniority, and taking that employee's position, commonly referred to as "bumping."* Such rules shall be approved by the Administration Commission prior to their adoption by the department. *This subsection does not prohibit collective bargaining units from seeking to incorporate "bumping" in their collective bargaining agreements.*

(3)(a) *With regard to law enforcement or correctional officers or firefighters, when a layoff becomes necessary, such layoff shall be conducted within the competitive area identified by the agency head and approved by the Department of Management Services. Such competitive area shall be established taking into consideration the similarity of work; the organizational unit, which may be by agency, department, division, bureau, or other organizational unit; and the commuting area for the work affected.*

(b) Layoff procedures shall be developed to establish the relative merit and fitness of employees and shall include a formula for uniform application among *potentially adversely affected employees, or, with respect to law enforcement or correctional officers or firefighters, among all employees in the competitive area, taking into consideration the type of appointment, the length of service, and the evaluations of the employee's performance within the last 5 years of employment.*

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002, such actions shall be appealable to the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. *Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal.* Subsequent to such notice, and prior to the date the action is to be taken, ~~an affected law enforcement or correctional officer or a firefighter employee~~ shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission.

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 days'

prior notice, provided that written or oral notice of such action, evidence of the reasons therefor, and an opportunity to rebut the charges are furnished to the employee prior to such dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Agency compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated. *As of January 1, 2002, any employee who is suspended or dismissed pursuant to the provisions of this paragraph shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(6) *For any alleged adverse agency action against an employee, other than a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the adversely affected employee bears the burden of proof to establish by preponderance of the evidence that the agency head abused his or her discretion in suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee and that no reasonable cause existed for the alleged adverse action taken by the agency, or that the alleged adverse action was in violation of s. 109.233. For any alleged adverse agency action against a law enforcement or correctional officer or a firefighter occurring on or after July 1, 2001, the agency must prove just cause for suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee.*

(7)(6) A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee ~~believes~~ ~~thinks~~ ~~or feels~~ that any condition affecting the employee is unjust, inequitable, or a hindrance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless *the employee alleges it is alleged* that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(8)(7) The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, an affected law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002, an employee who is suspended or dismissed shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the*

~~commission.~~ Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.

Section 52. Section 110.233, Florida Statutes, is renumbered as section 109.233, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended to read:

~~109.233 110.233~~ Political activities and unlawful acts prohibited.—

(4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:

(a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department of Management Services as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department of Management Services shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.

Section 53. Section 110.235, Florida Statutes, is renumbered as section 109.235, Florida Statutes, and subsection (1) of said section is amended to read:

~~109.235 110.235~~ Training.—

(1) ~~It is the intent of the Legislature that~~ State agencies shall implement training programs that encompass modern management principles, and that provide the framework to develop human resources through empowerment, training, and rewards for productivity enhancement; to continuously improve the quality of services; and to satisfy the expectations of the public.

Section 54. (1) Except as otherwise provided, effective January 1, 2002, section 109.240, Florida Statutes, is created to read:

~~109.240~~ Voluntary binding arbitration.—

(1) Upon receipt of notice of an adverse agency action, any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations. As used in this section, "adverse agency action" means the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee. Any eligible employee choosing to participate in voluntary binding arbitration must file a written request for arbitration with the office no later than 14 days after the receipt of notice of the adverse agency action.

(2) The arbitration request must be submitted on a form prescribed by the office by rule. The form must be signed by the employee and must include stipulations that:

(a) The employee is voluntarily participating in binding arbitration pursuant to this section.

(b) The arbitration order is final and may not be set aside except for an error in law that is apparent on the record.

(c) The employee will faithfully abide by the arbitration order unless otherwise determined by a court of competent jurisdiction.

(3) Upon receipt of the arbitration request, the office shall provide written notice to the agency against which a request is made regarding the employee request for binding arbitration. The agency must participate in the requested binding arbitration. Binding arbitration shall not be conducted pursuant to this section unless the employee requests it.

(4)(a) The employee bears the burden of establishing by a preponderance of the evidence that the agency action complained of was

adverse, that the agency head abused his or her discretion in taking the adverse agency action, and that no reasonable cause existed for the adverse agency action. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the employer must prove just cause for the adverse agency action.

(5)(a) The voluntary binding arbitration shall be heard and determined by an employee panel that consists of three randomly selected career service employees chosen by the office in a manner to ensure a balanced representation of employees from each pay classification. At least one of the employees selected to serve on an employee panel must be a member of the same pay classification as the employee requesting binding arbitration. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the voluntary binding arbitration shall be heard and determined by an employee panel that consists of three career service employees selected as follows:

1. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by that employee.

2. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by the employer.

3. One panel member jointly selected by the other two panel members. If the two panel members do not agree on the jointly selected panel member, the office shall select that panel member.

(c) The employee panel shall receive procedural direction and legal advice from the arbitrator appointed by the office.

(d) No employee currently employed or employed within the preceding 6 months by the agency participating in the binding arbitration shall be selected for an employee panel. Employees selected to serve on an employee panel shall hear all evidence submitted by the parties in arbitration and their decision shall be governed by the statutory burden of proof. The office shall reimburse agencies for the daily tasks of each agency employee that serves on an employee panel.

(e) The employee panel shall make all findings of fact and determination of claims. The arbitrator shall draft the arbitration decision for submission to the members of the employee panel for their approval and signatures. Unless otherwise provided in the decision, the decision shall become final 10 days after its execution by the panel.

(6) Any party may be represented by counsel or another appointed representative. The arbitrator and employee panel must complete all arbitration of the employee's claims raised in the request within 60 days after receipt of the claim. The arbitrator may extend the 60-day period upon request of the parties or at the request of one party, after a hearing on that party's request for extension.

(7)(a) The arbitrator selected by the office shall not be an employee within the Career Service System, the Select Management Service, or the Selected Exempt Service. Each selected arbitrator must, at a minimum, meet the following requirements:

1. Completion of a Florida Supreme Court certified circuit or county arbitration program, or other arbitration program approved by the office, in addition to a minimum of 1 day of training in the application of this chapter and chapter 447 and any rules adopted thereunder.

2. Compliance with the Code of Ethics for Arbitrators in Employment Disputes published by the American Arbitration Association and the American Bar Association in 1977, as amended.

3. Membership in good standing in The Florida Bar.

(b) The arbitrator shall have authority to commence and adjourn the arbitration hearing. The arbitrator shall not have authority to hold any

person in contempt or to in any way impose sanctions against any person. The arbitrator shall provide assistance to the employee panel on questions of law.

(c) The arbitrator shall schedule all arbitration proceedings, including the date, time, and location of such proceedings and provide notice of the arbitration proceeding to the parties at least 5 days in advance of the hearing date, unless otherwise agreed to by the parties. The arbitrator has the discretion to grant a continuance for reasonable cause.

(d) The arbitrator may set a preliminary conference and require all parties to file a statement of position prior to the conference. The statement of position may include stipulations of the parties to uncontested facts and applicable law, citations to all governing statutory or regulatory laws that control the controversy, a list of issues of fact and law that are in dispute, any proposals designed to expedite the arbitration process, a list of documents exchanged by the parties and a schedule for the delivery of any additional relevant documents, identification of witnesses expected to be called during the arbitration proceeding accompanied by a short summary of their expected testimony, and any other matters specified by the arbitrator.

(8) The duties of the office in administering voluntary binding arbitration pursuant to this section include, but are not limited to, the following:

(a) Supporting the arbitration process, including the filing and noticing of all arbitration requests, objections, and other party communications; the selection of the arbitrator; and the design and operation of the employee panel pool.

(b) Providing for the selection of the employee panel and arbitrator, which includes:

1. Providing selection notice to all parties, the arbitrator, and the employee panel participants.

2. Securing a signed disclosure statement from each appointed arbitrator and selected employee describing any circumstances likely to affect impartiality, including any bias or any financial or personal interest with either party or any present or past relationship with the employee seeking binding arbitration, and making these disclosure statements available to the parties. The duty to disclose shall be a continuing obligation throughout the arbitration process.

3. Filling vacancies.

4. Compensating arbitrators, provided that an arbitrator's fees and expenses shall not exceed \$500 per day for case preparation, prehearing conferences, hearings, and preparation of the arbitration order.

5. Making an electronic recording of each arbitration proceeding, including preconference hearings, even when a party chooses to make a stenographic recording of the arbitration proceeding at that party's expense.

(c) Publishing the final arbitration order submitted to the office by both parties and the arbitrator.

(9) The office shall maintain records of each dispute submitted to voluntary binding arbitration, including the recordings of the arbitration hearings. All records maintained by the office under this section shall be public records and shall be available for inspection upon reasonable notice.

(10) The arbitration proceedings shall be governed by the following procedural requirements:

(a) A party may object to the arbitrator or any employee on the panel based on the arbitrator's or employee's past or present, direct or indirect, relationship with either party or either party's attorney, whether that relationship was or is financial, professional, or social. The arbitrator shall consider any objection to a panel employee, determine its validity, and notify the parties of his or her determination. If the objection is determined valid, the office shall assign another employee from the

employee panel pool. The office shall consider any objection to the arbitrator, determine its validity, and notify the parties of its determination. If the objection is determined valid, the office shall appoint another arbitrator.

(b) The arbitrator has the power to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, excluding contempt. Fees for attendance of witnesses shall be the same as that provided in civil actions in circuit courts of this state.

(c) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths.

(d) The arbitrator may continue a hearing on his or her own motion or upon the request of the party for good cause shown. A request for continuance by the employee constitutes a waiver of the 60-day time period for completion of all arbitration proceedings authorized under this section.

(e) The employee panel shall render its decision within 10 days after the closing of the hearing. The decision shall be in writing on a form prescribed or adopted by the office. The arbitrator shall send a copy of the decision to the parties by registered mail.

(f) Unless otherwise provided, the arbitration decision rendered by the employee panel and any appeals thereof are exempt from the provisions of chapter 120.

(11)(a) The office shall establish rules of procedure governing the arbitration process. Such rules shall include, but are not limited to:

1. The exchange and filing of information among the parties.

2. Discovery.

3. Offering evidence.

4. Calling and excluding witnesses.

5. Submitting evidence by affidavit.

6. Attendance of the parties and witnesses.

7. The order of proceedings.

(b) The office may adopt additional rules necessary to implement this section.

(12) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business, or the county where the arbitration hearing was held, for an order confirming, vacating, or modifying the arbitration decision. Such application must be filed within 30 days after the later of the moving party's receipt of the written decision or the date the decision becomes final. Upon filing such application, the moving party shall mail a copy to the office and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the office. A review of such application to circuit court shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrator to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the United States Constitution or the Florida Constitution.

If the arbitrator and employee panel fail to state findings or reasons for the stated decision, or the findings and reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the decision.

(13) *The office, the arbitrator, and the employee panel shall have absolute immunity from liability arising from the performance of their duties while acting within the scope of their appointed function in any arbitration conducted under this section.*

(2) For purposes of rulemaking by the Office of Employee Relations, subsection (11) of s. 109.240, Florida Statutes, as created by this section, shall take effect July 1, 2001.

Section 55. Section 110.401, Florida Statutes, is renumbered as section 109.401, Florida Statutes, and amended to read:

~~109.401~~ ~~110.401~~ Declaration of policy.—~~It is the intent of This part creates to create~~ a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior Management Service employees. ~~Accordingly To this end,~~ training and management-development programs are regarded as a major administrative function within agencies.

Section 56. Section 110.402, Florida Statutes, is renumbered as section 109.402, Florida Statutes, and subsection (2) of said section is amended to read:

~~109.402~~ ~~110.402~~ Senior Management Service; creation, coverage.—

(2) The Senior Management Service shall be limited to those positions which are exempt from the Career Service System by s. ~~109.205(2)~~ ~~110.205(2)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Senior Management Service.

Section 57. Section 110.403, Florida Statutes, is renumbered as section 109.403, Florida Statutes, and amended to read:

~~109.403~~ ~~110.403~~ Powers and duties of the Department of Management Services.—

(1) ~~In order to implement the purposes of this part,~~ The department of ~~Management Services~~, after approval by the Administration Commission, shall adopt and amend rules ~~that provide~~ ~~providing~~ for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

(e) A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

(f) Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the department of ~~Management Services~~ to determine agency compliance with the provisions of this part and ~~with the department's rules of the Department of Management Services.~~

(g) Other procedures relating to personnel administration to carry out the purposes of this part.

(h) A program of affirmative and positive action that will ensure full utilization of ~~the rich diversity of Florida's human resources~~ ~~women and minorities~~ in Senior Management Service positions.

(2) The powers, duties, and functions of the department of ~~Management Services~~ shall include responsibility for the policy administration of the Senior Management Service.

(3) The department of ~~Management Services~~ shall have the following additional responsibilities:

(a) To establish and administer a professional development program which shall provide for the systematic development of managerial, executive, or administrative skills.

(b) To promote public understanding of the purposes, policies, and programs of the Senior Management Service.

(c) To approve contracts of employing agencies with persons engaged in the business of conducting multistate executive searches to identify qualified and available applicants for Senior Management Service positions for which the department of ~~Management Services~~ sets salaries in accordance with the classification and pay plan. Such contracts may be entered by the agency head only after completion of an unsuccessful in-house search. The department of ~~Management Services~~ shall establish, by rule, the minimum qualifications for persons desiring to conduct executive searches, including a requirement for the use of contingency contracts. ~~These~~ ~~Such~~ rules shall ensure that such persons possess the requisite capacities to perform effectively at competitive industry prices. ~~These~~ ~~The Department of Management Services shall make the rules shall also required pursuant to this paragraph in such a manner as to~~ comply with state and federal laws and regulations governing equal opportunity employment.

(4) All policies and procedures adopted by the department of ~~Management Services~~ regarding the Senior Management Service shall comply with all federal regulations necessary to permit the state agencies to be eligible to receive federal funds.

(5) The department of ~~Management Services~~ shall adopt, by rule, procedures for Senior Management Service employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with any individual, partnership, association, corporation, utility, or other organization, whether public or private, doing business with or subject to regulation by the agency.

Section 58. Effective July 1, 2001, paragraph (a) of subsection (1) of section 109.403, Florida Statutes, as renumbered and amended by this act, is amended to read:

~~109.403~~ Powers and duties of the Department of Management Services.—

(1) The department, after approval by the Administration Commission, shall adopt and amend rules which provide for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed ~~0.5~~ ~~1.5~~ percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior

Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

Section 59. *Section 110.405, Florida Statutes, is renumbered as section 109.405, Florida Statutes.*

Section 60. Section 110.406, Florida Statutes, is renumbered as section 109.406, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of said section are amended to read:

109.406 ~~110.406~~ Senior Management Service; data collection.—

(2) The data required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. *109.403* ~~110.403~~.

(3) To assist in the preparation of the data required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. *109.405* ~~110.405~~.

Section 61. *Section 110.501, Florida Statutes, is renumbered as section 109.501, Florida Statutes.*

Section 62. Section 110.502, Florida Statutes, is renumbered as section 109.502, Florida Statutes, and subsections (2) and (3) of said section are amended to read:

109.502 ~~110.502~~ Scope of act; status of volunteers.—

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. *109.504* ~~110.504~~. However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. *109.504* ~~110.504~~, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 63. *Sections 110.503 and 110.504, Florida Statutes, are renumbered as sections 109.503 and 109.504, Florida Statutes, respectively.*

Section 64. Section 110.601, Florida Statutes, is renumbered as section 109.601, Florida Statutes, and amended to read:

109.601 ~~110.601~~ Declaration of policy.—~~It is the purpose of~~ This part ~~creates to create~~ a system of personnel management *the purpose of which is to deliver* ~~which ensures to the state the delivery of~~ high-quality performance *by those employees* in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

Section 65. Section 110.602, Florida Statutes, is renumbered as section 109.602, Florida Statutes, and amended to read:

109.602 ~~110.602~~ Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel

administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2) and (5)* ~~110.205(2) and (5)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.

Section 66. Effective July 1, 2001, section 109.602, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.602 Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2) and (5)* and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. ~~In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.~~

Section 67. *Sections 110.603 and 110.604, Florida Statutes, are renumbered as sections 109.603 and 109.604, Florida Statutes, respectively.*

Section 68. Section 110.605, Florida Statutes, is renumbered as section 109.605, Florida Statutes, and subsection (1) of said section is amended to read:

109.605 ~~110.605~~ Powers and duties; personnel rules, records, reports, and performance appraisal.—

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

~~(b) It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.~~

~~(b)(e)~~ The department shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement. Each employing agency shall develop a performance appraisal system for all other employees and positions in the Selected Exempt System. Such agency system shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c)(d) *The employing agency must maintain, on a current basis, all records and reports required by applicable rules. The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.*

~~(e) The department shall develop a program of affirmative and positive actions that will ensure full utilization of women and minorities in Selected Exempt Service positions.~~

Section 69. Section 110.606, Florida Statutes, is renumbered as section 109.606, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

~~109.606~~ ~~110.606~~ Selected Exempt Service; data collection.—

(2) The data required by this section shall include:

(c) In addition, as needed, ~~the data shall include:~~

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

Section 70. (1) *Sections 109.105 through 109.191, Florida Statutes, are designated as part I of chapter 109, Florida Statutes, to be entitled "General State Employment Provisions."*

(2) *Sections 109.201 through 109.240, Florida Statutes, are designated as part II of chapter 109, Florida Statutes, to be entitled "Career Service System."*

(3) *Sections 109.401 through 109.406, Florida Statutes, are designated as part III of chapter 109, Florida Statutes, to be entitled "Senior Management Service System."*

(4) *Sections 109.501 through 109.504, Florida Statutes, are designated as part IV of chapter 109, Florida Statutes, to be entitled "Volunteers."*

(5) *Sections 109.601 through 109.606, Florida Statutes, are designated as part V of chapter 109, Florida Statutes, to be entitled "Selected Exempt Service System."*

Section 71. Paragraph (c) of subsection (2) and paragraph (d) of subsection (3) of section 20.171, Florida Statutes, are amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter 109 ~~110~~, may be created without specific legislative authority.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4).

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Section 72. Subsection (3) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(3) Unless otherwise provided by law, the Secretary of Community Affairs shall appoint the directors or executive directors of any commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. 109.205 ~~110.205~~. The appointment or termination by the secretary will be done with the

advice and consent of the commission or council; and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

Section 73. Subsection (6) of section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(6) Notwithstanding the provisions of s. 109.123 ~~110-123~~, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 74. Paragraph (d) of subsection (1), paragraph (h) of subsection (2), paragraphs (d), (f), (h), and (i) of subsection (3), paragraphs (c) and (d) of subsection (4), and subsection (5) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1)

(d) Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter 109 ~~110~~ and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter 109 ~~110~~, the Governor shall approve said salary.

(2)

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 109 ~~110~~ and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(3)

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

- a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;
- b. Performing statewide activities which it is more cost-effective to perform in a central location;
- c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and
- d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

- a. The Office of Administration;
- b. The Office of Policy Planning;
- c. The Office of Design;
- d. The Office of Highway Operations;

- e. The Office of Right-of-Way;
- f. The Office of Toll Operations;
- g. The Office of Information Systems; and
- h. The Office of Motor Carrier Compliance.

3. Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter 109 ~~110~~. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

4. During the construction of a major transportation improvement project or as determined by the district secretary, the department may provide assistance to a business entity significantly impacted by the project if the entity is a for-profit entity that has been in business for 3 years prior to the beginning of construction and has direct or shared access to the transportation project being constructed. The assistance program shall be in the form of additional guarantees to assist the impacted business entity in receiving loans pursuant to Title 13 C.F.R. part 120. However, in no instance shall the combined guarantees be greater than 90 percent of the loan. The department shall adopt rules to implement this subparagraph.

(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter 109 ~~110~~.

2. The functions of the Office of Management and Budget include, but are not limited to:

- a. Preparation of the work program;
- b. Preparation of the departmental budget; and
- c. Coordination of related policies and procedures.

3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter 109 ~~110~~. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is

responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.

2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:

a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.

b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.

(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department;

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;

c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;

d. The amount or portion of each such apportionment against general contractual and other liabilities then created;

e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;

f. The expense and operating costs of the various activities of the department;

g. The receipts accruing to the department and the distribution thereof;

h. The assets, investments, and liabilities of the department; and

i. The cash requirements of the department for a 36-month period.

4. The comptroller shall maintain a separate account for each fund administered by the department.

5. The comptroller shall perform such other related duties as designated by the department.

(4)

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 109 ~~110~~.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter 109 ~~110~~.

(5) Notwithstanding the provisions of s. 109.205 ~~110.205~~, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 109.205(2)(i) ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. 109.205(2)(l) ~~110.205(2)(l)~~.

Section 75. Subsection (2) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff,
2. Office of General Counsel,
3. Office of Inspector General,
4. Office of External Affairs,
5. Office of Legislative and Government Affairs, and
6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is

to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~.

Section 76. Paragraph (b) of subsection (3) and paragraph (e) of subsection (6) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service.

(6) FLORIDA CORRECTIONS COMMISSION.—

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 109 ~~110~~ and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

Section 77. Paragraph (d) of subsection (20) of section 24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department shall:

(20) Employ division directors and other staff as may be necessary to carry out the provisions of this act; however:

(d) The department shall establish and maintain a personnel program for its employees, including a personnel classification and pay plan which may provide any or all of the benefits provided in the Senior Management Service or Selected Exempt Service. Each officer or employee of the department shall be a member of the Florida Retirement System. The retirement class of each officer or employee shall be the same as other persons performing comparable functions for other agencies. Employees of the department shall serve at the pleasure of the secretary and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the secretary. Such personnel actions are exempt from the provisions of chapter 120. All employees of the department are exempt from the Career Service System provided in chapter 109 ~~110~~ and, notwithstanding the provisions of s. 109.205(5) ~~110.205(5)~~, are not included in either the Senior Management Service or the Selected Exempt Service. However, all employees of the department are subject to all standards of conduct adopted by rule for career service and senior management employees pursuant to chapter 109 ~~110~~. In the event of a

conflict between standards of conduct applicable to employees of the Department of the Lottery the more restrictive standard shall apply. Interpretations as to the more restrictive standard may be provided by the Commission on Ethics upon request of an advisory opinion pursuant to s. 112.322(3)(a), for purposes of this subsection the opinion shall be considered final action.

Section 78. Paragraph (d) of subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(d) Section 109.131 ~~110.131~~, relating to other personal services.

Section 79. Subsection (1) of section 68.087, Florida Statutes, is amended to read:

68.087 Exemptions to civil actions.—

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term “senior executive branch official” means any person employed in the executive branch of government holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~.

Section 80. Subsection (3) of section 104.31, Florida Statutes, is amended to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(3) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee’s off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 109.233 ~~110.233~~.

Section 81. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, “employee of the department” means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 82. Subsection (4) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter 109 ~~110~~. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter 109 ~~110~~, except that the commission shall have complete authority for setting the executive director's salary. Attorneys employed by the commission shall be subject to part V of chapter 109 ~~110~~.

Section 83. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 109 ~~110~~ and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109 ~~110~~, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 84. Section 112.0805, Florida Statutes, is amended to read:

112.0805 Employer notice of insurance eligibility to employees who retire.—Any employer who provides insurance coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the insurance coverage as provided by this law.

Section 85. Paragraph (a) of subsection (9) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~ or any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~ or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the

Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

Section 86. Paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, is amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s.

216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.
2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.
3. The benefit to state government to have a final report on the disclosed information.
4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 109 ~~110~~.
5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.
6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 87. Subsection (2) of section 112.363, Florida Statutes, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

Section 88. Effective July 1, 2001, paragraph (a) of subsection (2) of section 112.363, Florida Statutes, as amended by chapter 2000-169, Laws of Florida, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a),

and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments.

Section 89. Subsection (38) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. 109.203(24) ~~110.203(24)~~ or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(2)(a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

Section 90. Paragraph (b) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(3) PROCEDURE FOR DESIGNATING.—

(b)1. Applying the criteria set forth in this section, the Department of Management Services shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter 109 ~~110~~ entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. When a class is not specified by the department as provided in subparagraph 1., the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

Section 91. Paragraph (a) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida

Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)(a) Participation in the Senior Management Service Class shall be limited to and compulsory for any member of the Florida Retirement System who holds a position in the Senior Management Service of the State of Florida, established by part III of chapter 109 ~~110~~, unless such member elects, within the time specified herein, to participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 92. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

3. The Chancellor and the university presidents.

Section 93. Subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of the Department of Management Services.

(b) Recruitment and examination.

(c) Time reporting.

(d) Collective bargaining.

Section 94. Subsection (2) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(2) For purposes of this chapter, terms related to personnel affairs of the state shall be defined as set forth in s. 109.203 ~~110.203~~.

Section 95. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 109 ~~110~~.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the President of the Senate and the Speaker of the House of Representatives, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 96. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. 109.122 ~~110.122~~. Educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 97. Paragraph (c) of subsection (1) of section 235.217, Florida Statutes, is amended to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)

(c) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department, except as otherwise provided in chapters 109 ~~110~~, 255, and 287 for agencies of the executive branch.

Section 98. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules relating to the appointment, employment, and removal of personnel which delegate its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. 109.116,

109.123, 109.1232, 109.1234, and 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121, 122, and 238. The board shall adopt rules to provide for a coordinated, efficient systemwide program and shall delegate to the universities authority for implementing the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. The salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 99. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes, is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. 109.1245 ~~110.1245~~, the Board of Regents and each university shall promulgate rules for an employee recognition program which provides for the following components:

1. A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. No cash award under the superior accomplishment component of the program shall exceed \$1,000, excluding applicable taxes.

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed \$50, excluding applicable taxes.

Section 100. Section 240.507, Florida Statutes, is amended to read:

240.507 Extension personnel; federal health insurance programs notwithstanding the provisions of s. 109.123 ~~110.123~~.—The Institute of Food and Agricultural Sciences at the University of Florida is authorized to pay the employer's share of premiums to the Federal Health Benefits Insurance Program from its appropriated budget for any cooperative extension employee of the institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Section 101. Subsection (9) of section 241.002, Florida Statutes, is amended to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter 109 ~~110~~ and is included in the Senior Management Service in accordance with s. 109.205 ~~110.205~~.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 102. Paragraph (b) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(b) Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 109.205(2)(d) ~~110.205(2)(d)~~ and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 109 ~~110~~, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

Section 103. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 109.501 ~~110.501~~, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

Section 104. Paragraph (a) of subsection (4) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services, Florida Capitol Police.—The Department of Management Services, Florida Capitol Police, has the following powers and duties:

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter 109 ~~110~~, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

Section 105. Section 287.175, Florida Statutes, is amended to read:

287.175 Penalties.—A violation of this part or a rule adopted hereunder, pursuant to applicable constitutional and statutory procedures, constitutes misuse of public position as defined in s. 112.313(6), and is punishable as provided in s. 112.317. The Comptroller shall report incidents of suspected misuse to the Commission on Ethics, and the commission shall investigate possible violations of this part or rules adopted hereunder when reported by the Comptroller, notwithstanding the provisions of s. 112.324. Any violation of this part or a rule adopted hereunder shall be presumed to have been committed with wrongful intent, but such presumption is rebuttable. Nothing in this section is intended to deny rights provided to career service employees by s. 109.227 ~~110.227~~.

Section 106. Subsection (2) of section 288.708, Florida Statutes, is amended to read:

288.708 Executive director; employees.—

(2) The executive director and all employees of the board shall be exempt from the provisions of part II of chapter 109 ~~110~~, and the executive director shall be subject to the provisions of part IV of chapter 109 ~~110~~.

Section 107. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. 109.205(2) ~~110.205(2)~~; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included.

Section 108. Subsection (3) and paragraph (b) of subsection (4) of section 296.04, Florida Statutes, are amended to read:

296.04 Administrator; duties and qualifications; responsibilities.—

(3) The administrator shall be a resident of the state at the time of entering into employment in the position. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall afford applicants veterans' preference in appointment in accordance with ss. 295.07 and 295.085. In addition, the administrator must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in a health care facility,

or any equivalent combination of experience, training, and education totaling 7 years in work relating to administration of a health care facility.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 109. Subsection (1) and paragraph (b) of subsection (4) of section 296.34, Florida Statutes, are amended to read:

296.34 Administrator; qualifications, duties, and responsibilities.—

(1) The director shall appoint an administrator of the home who shall be the chief executive of the home. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall give preference in appointment as provided in ss. 295.07 and 295.085 to applicants for the position of administrator.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 110. Subsection (5) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. 109.112 ~~110-112~~.

Section 111. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 109 ~~110~~ and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 112. Subsection (4) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(4) The authority shall institute procedures to ensure that jobs created as a result of state funding pursuant to this section shall be subject to equal opportunity hiring practices as provided for in s. 109.112 ~~110-112~~.

Section 113. Paragraph (e) of subsection (3) of section 381.85, Florida Statutes, is amended to read:

381.85 Biomedical and social research.—

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter 109 ~~110~~ relating to the Career Service System.

Section 114. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 109.1127(3) ~~110-1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 115. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. The agency shall verify

through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter *109 110*.

Section 116. Subsection (3) of section 400.953, Florida Statutes, is amended to read:

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(3) Proof of compliance with the screening requirements of s. *109.1127 110.1127*, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

Section 117. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3) 110.1127(3)*, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 118. Subsection (4) of section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(4) Notwithstanding the provisions of chapter *109 110*, the departments may grant special pay increases to management fellows upon successful completion of the program.

Section 119. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. *109.205(2)(h) 110.205(2)(h)*, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career exempt employees.

Section 120. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3) 110.1127(3)*, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 121. Paragraph (o) of subsection (1) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(o) “Safety-sensitive position” means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. *109.1127 110.1127*; or a position in which a momentary lapse in attention could result in injury or death to another person.

Section 122. Paragraph (a) of subsection (3) of section 440.4416, Florida Statutes, is amended to read:

440.4416 Workers’ Compensation Oversight Board.—

(3) EXECUTIVE DIRECTOR; EXPENSES.—

(a) The board shall appoint an executive director to direct and supervise the administrative affairs and general management of the board who shall be subject to the provisions of part IV of chapter *109 110*. The executive director may employ persons and obtain technical assistance as authorized by the board and shall attend all meetings of the board. Board employees shall be exempt from part II of chapter *109 110*.

Section 123. Subsection (4) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports; proceedings; state-federal cooperation.—

(4) PERSONNEL.—Subject to chapter *109 110* and the other provisions of this chapter, the division is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such employees, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this chapter. The division may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this chapter and may in its discretion bond any person handling moneys or signing checks hereunder; the cost of such bonds shall be paid from the Employment Security Administration Trust Fund.

Section 124. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section 109.124 ~~110.124~~, relating to termination or transfer of State Career Service System employees aged 65 or older.

Section 125. Paragraph (a) of subsection (2) of section 456.048, Florida Statutes, is amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. 109.501(1) ~~110.501(1)~~.

Section 126. Subsection (3) of section 471.038, Florida Statutes, is amended to read:

471.038 Florida Engineers Management Corporation.—

(3) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455 and this chapter. The management corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 109 ~~110~~ or chapter 112, except that the board of directors and the staff are subject to the provisions of s. 112.061. The provisions of s. 768.28 apply to the management corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The management corporation shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455, this chapter, and the contract required by this section.

(c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the board, and in accordance with the contract required by this section.

(d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. All initial appointments shall expire on October 31, 2000. Current members may be appointed to one additional term that complies with the provisions of this paragraph. Two members shall be appointed for 2 years, three members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board, and the vacancy shall be filled by a new appointment.

(g) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.

(h) Use a portion of the interest derived from the management corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.

(i) Operate under an annual written contract with the department which is approved by the board. The contract must provide for, but is not limited to:

1. Approval of the articles of incorporation and bylaws of the management corporation by the department and the board.

2. Submission by the management corporation of an annual budget that complies with board rules for approval by the board and the department.

3. Annual certification by the board and the department that the management corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes. The contract must also provide for methods and mechanisms to resolve any situation in which the certification process determines noncompliance.

4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the management corporation to ensure compliance with the contract and the provisions of chapter 455 and this chapter and to act as a liaison for the department, the board, and the management corporation to ensure the effective operation of the management corporation.

5. Funding of the management corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.

6. The reversion to the board, or the state if the board ceases to exist, of moneys, records, data, and property held in trust by the management corporation for the benefit of the board, if the management corporation is no longer approved to operate for the board or the board ceases to exist. All records and data in a computerized database shall be returned to the department in a form that is compatible with the computerized database of the department.

7. The securing and maintaining by the management corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the management corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The management corporation must provide proof of insurance to the department. The department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the management corporation. Violation of this subparagraph shall be grounds for terminating the contract.

8. Payment by the management corporation, out of its allocated budget, to the department of all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.

9. Payment by the management corporation, out of its allocated budget, to the department of all costs incurred by the management corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

10. Payment by the management corporation, out of its allocated budget, to the department of all costs associated with the contract administrator of the department, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(j) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule

of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.

(k) Provide for persons charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.

(l) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

(m) Develop, with the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

Section 127. Subsection (3) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. 109.227 ~~110.227~~.

Section 128. Effective July 1, 2001, subsection (3) of section 509.036, Florida Statutes, as amended by this act, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for *reasonable* cause as set forth in s. 109.227.

Section 129. Subsection (1) of section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. 109.205 ~~110.205~~ in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation relating to any matter over which the department has jurisdiction or which occurs on property owned, managed, or occupied by the department. Those matters include laws relating to:

(a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.

(b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.

(c) Trespass, littering, forests, forest fires, and open burning.

(d) Damage to or theft of forest products.

(e) Enforcement of a marketing order.

(f) Protection of consumers.

(g) Civil traffic offenses provided for in chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over

which the department has jurisdiction or committed on property owned, managed, or occupied by the department.

(h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.

(i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.

(j) Any crime incidental to or related to paragraphs (a)-(i).

Section 130. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt under s. 109.205 ~~110.205~~ in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 131. Subsection (6) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter 109 ~~110~~. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.

Section 132. Subsection (4) of section 627.0623, Florida Statutes, is amended to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section, "employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 133. Paragraph (h) of subsection (4) of section 627.6488, Florida Statutes, is amended to read:

627.6488 Florida Comprehensive Health Association.—

(4) The association shall:

(h) Contract with preferred provider organizations and health maintenance organizations giving due consideration to the preferred provider organizations and health maintenance organizations which have contracted with the state group health insurance program pursuant to s. 109.123 ~~110.123~~. If cost-effective and available in the county where the policyholder resides, the board, upon application or renewal of a policy, shall place a high-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who shall determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. If cost-effective and available in the county where

the policyholder resides, the board, with the consent of the policyholder, may place a low-risk or medium-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who may determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. Prior to and during the implementation of case management, the plan case manager shall obtain input from the policyholder, parent, or guardian.

Section 134. Paragraph (a) of subsection (1) of section 627.649, Florida Statutes, is amended to read:

627.649 Administrator.—

(1) The board shall select an administrator, through a competitive bidding process, to administer the plan. The board shall evaluate bids submitted under this subsection based on criteria established by the board, which criteria shall include:

(a) The administrator's proven ability to handle large group accident and health insurance, and due consideration shall be given to any administrator who has acted as a third-party administrator for the state group health insurance program pursuant to s. 109.123 ~~110.123~~.

Section 135. Paragraph (a) of subsection (2) and subsection (3) of section 627.6498, Florida Statutes, are amended to read:

627.6498 Minimum benefits coverage; exclusions; premiums; deductibles.—

(2) BENEFITS.—

(a) The plan shall offer major medical expense coverage similar to that provided by the state group health insurance program as defined in s. 109.123 ~~110.123~~ except as specified in subsection (3) to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to limits on the deductible and coinsurance payments authorized under subsection (4), up to a lifetime limit of \$500,000 per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(3) COVERED EXPENSES.—The coverage to be issued by the association shall be patterned after the state group health insurance program as defined in s. 109.123 ~~110.123~~, including its benefits, exclusions, and other limitations, except as otherwise provided in this act. The plan may cover the cost of experimental drugs which have been approved for use by the Food and Drug Administration on an experimental basis if the cost is less than the usual and customary treatment. Such coverage shall only apply to those insureds who are in the case management system upon the approval of the insured, the case manager, and the board.

Section 136. Subsection (4) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(4) The provisions of this section shall not apply to a multiple-employer welfare arrangement as defined in s. 624.437(1) and in the State Health Plan as provided in s. 109.123 ~~110.123~~.

Section 137. Subsection (3) of section 655.019, Florida Statutes, is amended to read:

655.019 Campaign contributions; limitations.—

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department"

means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 138. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 139. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 140. Subsection (4) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(4) No individual filling a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~ is eligible to participate in the salary incentive program authorized by this section.

Section 141. Paragraph (c) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 109.227 ~~110.227~~ for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 142. Subsection (2) of section 945.043, Florida Statutes, is amended to read:

945.043 Department-operated day care services.—

(2) The department is exempt from the requirements of s. 109.151 ~~110.151~~.

Section 143. Subsection (6) of section 957.03, Florida Statutes, is amended to read:

957.03 Correctional Privatization Commission.—

(6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.—The commission shall be a separate budget entity, and the executive director shall be its chief administrative officer. The Department of Management Services shall provide administrative support and service to the commission to the extent requested by the executive director. The commission and its staff are not subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, and budgetary matters, except to the extent as provided in chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the executive branch. The executive director may designate a maximum of two policymaking or managerial positions as being exempt from the Career Service System. These two positions may be provided for as members of the Senior Management Service.

Section 144. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 145. Paragraph (e) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407.

Section 146. Paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, is amended to read:

985.4045 Sexual misconduct prohibited; reporting required; penalties.—

(1)

(b) Notwithstanding prosecution, any violation of this subsection, as determined by the Public Employees Relations Commission, constitutes sufficient cause under s. 109.227 ~~110.227~~ for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the juvenile justice system.

Section 147. Paragraph (c) of subsection (1) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)

(c)1. The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

3.a. A state agency may be eligible for an efficiency award based on changes to authorized positions. To be eligible, the agency must submit an application to the Legislative Budgeting Commission identifying the modification to an approved program resulting in efficiency and cost savings.

b. The amount of the efficiency award shall be determined by the Legislative Budgeting Commission but shall not exceed the actual savings of currently appropriated funds. In determining the amount of the award, the Legislative Budgeting Commission shall consider the actual savings for the current year and the annualized savings. The efficiency award may be used for nonrecurring purposes only.

c. Each state agency allowed to retain salary appropriations pursuant to this subparagraph shall submit in its next legislative budget request a schedule showing how the agency utilized such funds.

Section 148. Effective January 1, 2002, section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—~~It is declared that~~ The public policy of this the state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. ~~It is the intent of the Legislature that~~ Nothing herein shall be construed either to encourage or discourage organization of public employees. ~~This state's public policy is~~ ~~These policies are~~ best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating the Office of Employee Relations and establishing a voluntary binding arbitration procedure ~~Public Employees Relations Commission~~ to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 149. Effective January 1, 2002, subsections (1) and (2), paragraph (d) of subsection (3), and subsections (4), (8), (12), and (17) of section 447.203, Florida Statutes, are amended, and, effective July 1, 2001, subsections (19) and (20) are added to said section, to read:

447.203 Definitions.—As used in this part:

(1)(a) "Office" means the Office of Employee Relations within the Department of Management Services.

(b) "Commission" means the Public Employees Relations Commission created by s. 447.205.

(2) "Public employer" or "employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the office ~~commission~~ determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. With respect to all public employees determined by the office ~~commission~~ as properly belonging to a statewide bargaining unit composed of State Career Service System employees or Selected Professional Service employees, the Governor shall be deemed to be the public employer; and the Board of Regents shall be deemed to be the public employer with respect to all public employees within the State University System as provided in s. 240.209(3)(f), except that such employees shall have the right, in elections to be conducted at each university by the office ~~commission~~ pursuant to its rules, to elect not to participate in collective bargaining. In the event that a majority of such voting employees at any university elect not to participate in collective bargaining, they shall be removed from the applicable Board of Regents bargaining unit. If, thereafter, by election conducted by the office ~~commission~~ pursuant to its rules, a majority of such voting employees elect to participate in collective bargaining, they shall be included again in the applicable Board of Regents bargaining unit for such purpose. The board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college. The

district school board shall be deemed to be the public employer with respect to all employees of the school district. The Board of Trustees of the Florida School for the Deaf and the Blind shall be deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida School for the Deaf and the Blind. The Governor shall be deemed to be the public employer with respect to all employees in the Correctional Education Program of the Department of Corrections established pursuant to s. 944.801.

(3) "Public employee" means any person employed by a public employer except:

(d) Those persons who are designated by the *office commission* as managerial or confidential employees pursuant to criteria contained herein.

(4) "Managerial employees" are those employees who:

(a) Perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment in the performance of such jobs and to whom one or more of the following applies:

1. They formulate or assist in formulating policies which are applicable to bargaining unit employees.

2. They may reasonably be required on behalf of the employer to assist in the preparation for the conduct of collective bargaining negotiations.

3. They have a role in the administration of agreements resulting from collective bargaining negotiations.

4. They have a significant role in personnel administration.

5. They have a significant role in employee relations.

6. They are included in the definition of administrative personnel contained in s. 228.041(10).

7. They have a significant role in the preparation or administration of budgets for any public agency or institution or subdivision thereof.

(b) Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire, or public safety department. Other police officers, as defined in s. 943.10(1), and firefighters, as defined in s. 633.30(1), may be determined by the *office commission* to be managerial employees of such departments. In making such determinations, the *office commission* shall consider, in addition to the criteria established in paragraph (a), the paramilitary organizational structure of the department involved.

However, in determining whether an individual is a managerial employee pursuant to either paragraph (a) or paragraph (b), above, the *office commission* may consider historic relationships of the employee to the public employer and to coemployees.

(8) "Bargaining unit" means either that unit determined by the *office commission*, that unit determined through local regulations promulgated pursuant to s. 447.603, or that unit determined by the public employer and the public employee organization and approved by the *office commission* to be appropriate for the purposes of collective bargaining. However, no bargaining unit shall be defined as appropriate which includes employees of two employers that are not departments or divisions of the state, a county, a municipality, or other political entity.

(12) "Bargaining agent" means the employee organization which has been certified by the *office commission* as representing the employees in the bargaining unit, as provided in s. 447.307, or its representative.

(17) "Good faith bargaining" means ~~shall mean~~, but is not be limited to, the willingness of both parties to meet at reasonable times and places, as mutually agreed upon, in order to discuss issues which are proper subjects of bargaining, with the intent of reaching a common accord. It shall include an obligation for both parties to participate actively in the negotiations with an open mind and a sincere desire, as well as making a sincere effort, to resolve differences and come to an

agreement. In determining whether a party failed to bargain in good faith, the *office commission* shall consider the total conduct of the parties during negotiations as well as the specific incidents of alleged bad faith. Incidents indicative of bad faith shall include, but not be limited to, the following occurrences:

(a) Failure to meet at reasonable times and places with representatives of the other party for the purpose of negotiations.

(b) Placing unreasonable restrictions on the other party as a prerequisite to meeting.

(c) Failure to discuss bargainable issues.

(d) Refusing, upon reasonable written request, to provide public information, excluding work products as defined in s. 447.605.

(e) Refusing to negotiate because of an unwanted person on the opposing negotiating team.

(f) Negotiating directly with employees rather than with their certified bargaining agent.

(g) Refusing to reduce a total agreement to writing.

(19) "Firefighter" means a firefighter certified under chapter 633.

(20) "Law enforcement or correctional officer" means a law enforcement officer, special agent, correctional officer, correctional probation officer, or institutional security specialist required to be certified under chapter 943.

Section 150. *Effective June 30, 2002, paragraph (b) of subsection (1) and paragraph (h) of subsection (3) of section 447.203, Florida Statutes, and section 447.205, Florida Statutes, are repealed.*

Section 151. Section 447.204, Florida Statutes, is created to read:

447.204 Office of Employee Relations.—

(1)(a) There is created within the Department of Management Services the Office of Employee Relations, hereinafter referred to as the "office." The Governor shall appoint an executive director of the office. The executive director shall serve at the pleasure of and report to the Governor. The executive director must be a member in good standing of The Florida Bar, have a minimum of 5 years of legal experience, and be knowledgeable regarding and have a background in the laws regarding state employees, the Career Service System, employee bargaining units, and collective bargaining. In no event shall the executive director be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers, employees, or employee organizations. The executive director shall serve on a full-time basis, and shall personally, or through a representative of the office, carry out the purposes and functions of the office in accordance with state and federal law. The executive director shall be responsible for the administrative functions of the office, including the executive board. The executive director shall make all planning, personnel, and budgeting decisions with regard to the office, except that such decisions shall be made in consultation with the board members with regard to their duties and responsibilities. The executive director shall be solely responsible for handling unfair labor practice disputes, registration and recognition of bargaining units, decertification of bargaining units, unit clarification, and elections, as well as any other duty or responsibility statutorily required by the office. The executive director, or the executive director's designee, shall be responsible for establishing and implementing a training and education program for all the office's employees with regard to their duties and responsibilities, procedural requirements, and applicable law, as appropriate for each employee's position.

(b) There is created within the office a three-member executive board. Effective January 1, 2002, the three commissioners of the Public Employees Relations Commission are transferred to the office and shall constitute the executive board. Each board member's term shall expire on the same date as that member's current term as commissioner. Thereafter, the Governor shall appoint each board member, subject to confirmation by the Senate, from persons representative of the public and

known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while on the board. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employees or employee organizations. The board members shall devote full time to board duties and shall not engage in any other business, vocation, or employment while in such office. Every term of office shall be for 4 years. Nothing in this section prohibits an executive board member from serving multiple terms. In the event a vacancy occurs prior to the expiration of a term of office, the Governor shall appoint another person to serve on the board for the unexpired term of that office. The executive board shall implement the voluntary binding arbitration program which is set forth in s. 109.240 and shall perform the duties required of the office with regard to resolution of impasses as described in s. 447.403.

(2) The executive director shall employ a general counsel and an administrative assistant to meet immediate staffing needs. The executive director, general counsel, and administrative assistant shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal monthly installments. The executive director, general counsel, and administrative assistant shall be reimbursed for necessary travel expenses, as provided in s. 112.061. Effective December 1, 2001, the executive director shall have the authority to employ such personnel as is necessary to carry out the duties and responsibilities of the office. These personnel shall be paid annual salaries fixed by law, in equal monthly installments, and such personnel shall be reimbursed for necessary travel expenses as provided in s. 112.061.

(3) The office, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction of the Department of Management Services. The office shall be a separate budget entity within the department's legislative budget request.

(4) The Department of Management Services shall provide the necessary office space, furniture, equipment, and supplies necessary for the startup of the office. The department shall further provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The executive director may request the assistance of the Inspector General of the Department of Management Services in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the office.

(5) The office shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures by the office shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the executive director.

(6) The office may charge for copies of records and documents as provided for in s. 119.07.

(7) The office shall maintain and keep open during reasonable business hours an office at which its public records shall be kept. The office may conduct hearings at any place within the state.

(8) The office shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Office of Employee Relations—Seal" and which shall be judicially noticed.

(9) The office is expressly authorized to provide by rule for, and to destroy, obsolete records of the office.

(10) Any hearing held or oral argument heard by the office pursuant to chapter 120 or this chapter shall be open to the public.

(11) Any hearing held by the office under this part shall be conducted in accordance with the provisions of ss. 120.569 and 120.57 by an employee of the office, or a person designated by the executive director, who is a member in good standing of The Florida Bar.

Section 152. Effective January 1, 2002, section 447.207, Florida Statutes, as amended by this act, is amended to read:

447.207 *Office of Employee Relations Commission*; powers and duties.—

(1) The *Office of Employee Relations commission* shall, in accordance with chapter 120, adopt, promulgate, amend, or rescind such rules and regulations as it deems necessary and administratively feasible to carry out the provisions of this part.

(2) To accomplish the objectives and carry out the duties prescribed by this part, the *office commission* may preserve and enforce order during any proceeding; issue subpoenas for, administer oaths or affirmations to, and compel the attendance and testimony of witnesses; or issue subpoenas for, and compel the production of, books, papers, records, documents, and other evidence. However, in the absence of extraordinary circumstances, no subpoena shall issue which commands the attendance or testimony of any *office commissioner* or any *commission* employee at an *office a commission* proceeding with respect to the performance of official or assigned duties, or the production of books, papers, records, or documents of the *office commission* which have been prepared during the performance of such duties.

(3) If any person:

(a) Misbehaves during a proceeding or so near the place thereof as to obstruct the same;

(b) Neglects to produce, after having been ordered to do so, any pertinent book, paper, record, or document; or

(c) Refuses or fails to appear after having been subpoenaed or, upon appearing, refuses to take oath or affirmation as a witness or, after having taken the oath, refuses to be examined according to law,

the *office commission* shall certify the facts to the circuit court having jurisdiction in the county where the proceeding is taking place, which shall thereupon in a summary manner hear the evidence as to the acts complained of and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process or order of, or in the presence of, the court.

(4) Any subpoena, notice of hearing, or other process or notice of the *commission* issued by the office under the provisions of this part shall be served personally or by certified mail. A return made and verified by the individual making such service and setting forth the manner of such service is proof of service, and a returned post office receipt, when certified mail is used, is proof of service. All process of any court to which application may be made under the provisions of this part shall be served in the county wherein the persons required to be served reside or may be found.

(5) The *office commission* shall adopt rules as to the qualifications of persons who may serve as mediators and special masters and shall maintain lists of such qualified persons who are not employees of the *office commission*. The *office commission* may initiate dispute resolution procedures by special masters, pursuant to the provisions of this part.

(6) Pursuant to its established procedures, the *office commission* shall resolve questions and controversies concerning claims for recognition as the bargaining agent for a bargaining unit, determine or approve units appropriate for purposes of collective bargaining, expeditiously process charges of unfair labor practices and violations of s. 447.505 by public employees, and resolve such other questions and controversies as it may be authorized herein to undertake. The petitioner, charging party, respondent, and any intervenors shall be the adversary parties before the *office commission* in any adjudicatory proceeding conducted pursuant to this part. Any *office commission*

statement of general applicability that implements, interprets, or prescribes law or policy, made in the course of adjudicating a case pursuant to s. 447.307 or s. 447.503 shall not constitute a rule within the meaning of s. 120.52.

(7) The ~~office commission~~ shall provide by rule a procedure for the filing and prompt disposition of petitions for a declaratory statement as to the applicability of any statutory provision or any rule or order of the ~~office commission~~. Such rule or rules shall provide for, but not be limited to, an expeditious disposition of petitions posing questions relating to potential unfair labor practices. ~~Office Commission~~ disposition of a petition shall be final agency action and shall not constitute a rule as defined in s. 120.52.

(8) ~~The office shall provide for voluntary binding arbitration as provided in s. 109.240 with regard to a Pursuant to s. 447.208, the commission or its designated agent shall hear appeals arising out of any suspension, reduction in pay, transfer, layoff, demotion, or dismissal of any permanent employee in the State Career Service System. Written notice of a request for voluntary binding arbitration any such appeal shall be filed with the office commission within 14 calendar days after the date on which the notice of suspension, reduction in pay, transfer, layoff, demotion, or dismissal is received by the employee.~~

(9) ~~The office shall provide for voluntary binding arbitration as provided in s. 109.240 and, pursuant thereto, shall facilitate the arbitration of appeals Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:~~

(a) Section 109.124, relating to termination or transfer of State Career Service System employees aged 65 or older.

(b) Section 112.044(4), relating to age discrimination.

(c) Section 295.11, relating to reasons for not employing a preferred veteran applicant.

(10) ~~Voluntary binding arbitration conducted Appeals to the commission pursuant to subsection (8) or subsection (9) shall be the exclusive administrative review of such actions, notwithstanding the provisions of chapter 120. However, nothing in this subsection shall affect an employee's rights pursuant to s. 447.401 or s. 447.503.~~

(11) ~~Decisions issued by the commission pursuant to subsection (8) or subsection (9) shall be final agency action which shall be reviewable pursuant to s. 447.504.~~

Section 153. *Notwithstanding the amendments to s. 447.207, Florida Statutes, by this act, the authority granted to the Public Employees Relations Commission by s. 407.207(1), (2), (3), and (4), Florida Statutes 2000, shall continue to apply to the commission until June 30, 2002.*

Section 154. Effective July 1, 2001, section 447.208, Florida Statutes, is amended to read:

447.208 Procedure for ~~with respect to~~ certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to demotions, suspensions, or dismissals pursuant to the provisions of this section:

(a)1. *For an alleged adverse agency action against an employee, except a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the burden of proof shall be on the employee requesting the appeal to establish by a preponderance of the evidence that the agency head abused his or her discretion in demoting, suspending, or dismissing the employee and that no reasonable cause existed for the alleged adverse action taken by the agency.*

2.(a) Upon a finding that *the adversely affected employee was unable to establish that the agency head abused his or her discretion and was unable to establish that no reasonable just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.*

3.(b) Upon a finding that *the adversely affected employee established that the agency head abused his or her discretion and that no reasonable just cause existed did not exist for the demotion, suspension, or dismissal, the commission may order the reinstatement of the employee, with or without back pay.*

(b) *With regard to a law enforcement or correctional officer or a firefighter:*

1. *Upon a finding that just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.*

2. *Upon a finding that just cause did not exist for the demotion, suspension, or dismissal, the commission may order the reinstatement of the law enforcement or correctional officer or firefighter, with or without back pay.*

3.(e) Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the commission may, in its limited discretion, reduce the penalty.

(d) The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

a.1. The seriousness of the conduct as it relates to the employee's duties and responsibilities.

b.2. Action taken with respect to similar conduct by other employees.

c.3. The previous employment record and disciplinary record of the employee.

d.4. Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his or her duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

(c)(e) Any order of the commission issued pursuant to this subsection may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission *finds sustains* the employee *met his or her burden of proof by establishing that the agency head abused his or her discretion and that no reasonable cause existed for the employee's demotion, suspension, or dismissal.* In determining the amount of an attorney's fee, the commission shall consider only the number of hours reasonably spent on the appeal, comparing the number of hours spent on similar Career Service System appeals and the reasonable hourly rate charged in the geographic area for similar appeals, but not including litigation over the amount of the attorney's fee. ~~This paragraph applies to future and pending cases.~~

Section 155. *Effective January 1, 2002, sections 447.208 and 447.2085, Florida Statutes, are repealed.*

Section 156. Effective January 1, 2002, subsection (5) of section 447.301, Florida Statutes, is amended to read:

447.301 Public employees' rights; organization and representation.—

(5) In negotiations over the terms and conditions of service and other matters affecting the working environment of employees, or the learning environment of students, in institutions of higher education, one student representative selected by the council of student body presidents may, at his or her discretion, be present at all negotiating sessions which take place between the Board of Regents and the bargaining agent for an employee bargaining unit. In the case of community colleges, the student government association of each college shall establish procedures for the selection of, and shall select, a student representative to be present, at his or her discretion, at negotiations between the bargaining agent of the employees and the board of trustees. Each student representative shall have access to all written draft agreements and all other written documents pertaining to negotiations exchanged by the appropriate public employer and the bargaining agent, including a copy of any prepared written transcripts of any negotiating session. Each student representative shall have the right at reasonable times during the negotiating session to comment to the parties and to the public upon the impact of proposed agreements on the educational environment of students. Each student representative shall have the right to be accompanied by alternates or aides, not to exceed a combined total of two in number. Each student representative shall be obligated to participate in good faith during all negotiations and shall be subject to the rules and regulations of the ~~office Public Employees Relations Commission~~. The student representatives shall have neither voting nor veto power in any negotiation, action, or agreement. The state or any branch, agency, division, agent, or institution of the state shall not expend any moneys from any source for the payment of reimbursement for travel expenses or per diem to aides, alternates, or student representatives participating in, observing, or contributing to any negotiating sessions between the bargaining parties; however, this limitation does not apply to the use of student activity fees for the reimbursement of travel expenses and per diem to the university student representative, aides, or alternates participating in the aforementioned negotiations between the Board of Regents and the bargaining agent for an employee bargaining unit.

Section 157. Effective January 1, 2002, section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

(1) Every employee organization seeking to become a certified bargaining agent for public employees shall register with the ~~office commission~~ pursuant to the procedures set forth in s. 120.60 prior to requesting recognition by a public employer for purposes of collective bargaining and prior to submitting a petition to the ~~office commission~~ requesting certification as an exclusive bargaining agent. Further, if such employee organization is not registered, it may not participate in a representation hearing, participate in a representation election, or be certified as an exclusive bargaining agent. The application for registration required by this section shall be under oath and in such form as the ~~office commission~~ may prescribe and shall include:

- (a) The name and address of the organization and of any parent organization or organization with which it is affiliated.
- (b) The names and addresses of the principal officers and all representatives of the organization.
- (c) The amount of the initiation fee and of the monthly dues which members must pay.
- (d) The current annual financial statement of the organization.
- (e) The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached.
- (f) A pledge, in a form prescribed by the ~~office commission~~, that the employee organization will conform to the laws of the state and that it

will accept members without regard to age, race, sex, religion, or national origin.

(g) A copy of the current constitution and bylaws of the employee organization.

(h) A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated. In lieu of this provision, and upon adoption of a rule by the ~~office commission~~, a state or national affiliate or parent organization of any registering labor organization may annually submit a copy of its current constitution and bylaws.

(2) A registration granted to an employee organization pursuant to the provisions of this section shall run for 1 year from the date of issuance. A registration shall be renewed annually by filing application for renewal under oath with the ~~office commission~~, which application shall reflect any changes in the information provided to the ~~office commission~~ in conjunction with the employee organization's preceding application for registration or previous renewal, whichever is applicable. Each application for renewal of registration shall include a current annual financial report, signed by its president and treasurer or corresponding principal officers, containing the following information in such detail as may be necessary accurately to disclose its financial condition and operations for its preceding fiscal year and in such categories as the ~~office commission~~ may prescribe:

- (a) Assets and liabilities at the beginning and end of the fiscal year;
- (b) Receipts of any kind and the sources thereof;
- (c) Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and also to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from such employee organization and any other employee organization affiliated with it or with which it is affiliated or which is affiliated with the same national or international employee organization;
- (d) Direct and indirect loans made to any officer, employee, or member which aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment; and
- (e) Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment.

(3) A registration fee shall accompany each application filed with the ~~office commission~~. The amount charged for an application for registration or renewal of registration shall not exceed \$25 ~~\$15~~. All such money collected by the ~~office commission~~ shall be deposited in the General Revenue Fund.

(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the ~~office commission~~ to the Department of Labor and Employment Security.

(5) Every employee organization shall keep accurate accounts of its income and expenses, which accounts shall be open for inspection at all reasonable times by any member of the organization or by the ~~office commission~~.

Section 158. Effective January 1, 2002, section 447.307, Florida Statutes, is amended to read:

447.307 Certification of employee organization.—

(1)(a) Any employee organization which is designated or selected by a majority of public employees in an appropriate unit as their representative for purposes of collective bargaining shall request recognition by the public employer. The public employer shall, if satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, recognize the employee organization as the collective bargaining representative of employees in the designated unit. Upon recognition by a public employer, the

employee organization shall immediately petition the ~~office commission~~ for certification. The ~~office commission~~ shall review only the appropriateness of the unit proposed by the employee organization. If the unit is appropriate according to the criteria used in this part, the ~~office commission~~ shall immediately certify the employee organization as the exclusive representative of all employees in the unit. If the unit is inappropriate according to the criteria used in this part, the ~~office commission~~ may dismiss the petition.

(b) Whenever a public employer recognizes an employee organization on the basis of majority status and on the basis of appropriateness in accordance with subparagraph (4)(f)5. of this section, the ~~office commission~~ shall, in the absence of inclusion of a prohibited category of employees or violation of s. 447.501, certify the proposed unit.

(2) If the public employer refuses to recognize the employee organization, the employee organization may file a petition with the ~~office commission~~ for certification as the bargaining agent for a proposed bargaining unit. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit, indicating that such employees desire to be represented for purposes of collective bargaining by the petitioning employee organization. Once a petition for certification has been filed by an employee organization, any registered employee organization desiring placement on the ballot in any election to be conducted pursuant to this section may be permitted by the ~~office commission~~ to intervene in the proceeding upon motion accompanied by dated statements signed by at least 10 percent of the employees in the proposed unit, indicating that such employees desire to be represented for the purposes of collective bargaining by the moving employee organization. The petitions and dated statements signed by the employees are confidential and exempt from the provisions of s. 119.07(1), except that any employee, employer, or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition.

(3)(a) The ~~office commission~~ or one of its designated agents shall investigate the petition to determine its sufficiency; if it has reasonable cause to believe that the petition is sufficient, the ~~office commission~~ shall provide for an appropriate hearing upon due notice. Such a hearing may be conducted by an agent of the ~~office commission~~. If the ~~office commission~~ finds the petition to be insufficient, it may dismiss the petition. If the ~~office commission~~ finds upon the record of the hearing that the petition is sufficient, it shall immediately:

1. Define the proposed bargaining unit and determine which public employees shall be qualified and entitled to vote at any election held by the ~~office commission~~.

2. Identify the public employer or employers for purposes of collective bargaining with the bargaining agent.

3. Order an election by secret ballot, the cost of said election and any required runoff election to be borne equally by the parties, except as the ~~office commission~~ may provide by rule. The ~~office's commission's~~ order assessing costs of an election may be enforced pursuant to the provisions of this part.

(b) When an employee organization is selected by a majority of the employees voting in an election, the ~~office commission~~ shall certify the employee organization as the exclusive collective bargaining representative of all employees in the unit. Certification is effective upon the issuance of the final order by the ~~office commission~~ or, if the final order is appealed, at the time the appeal is exhausted or any stay is vacated by the ~~office commission~~ or the court.

(c) In any election in which none of the choices on the ballot receives the vote of a majority of the employees voting, a runoff election shall be held according to rules promulgated by the ~~office commission~~.

(d) No petition may be filed seeking an election in any proposed or existing appropriate bargaining unit to determine the exclusive

bargaining agent within 12 months after the date of an ~~office a commission~~ order verifying a representation election or, if an employee organization prevails, within 12 months after the date of an effective certification covering any of the employees in the proposed or existing bargaining unit. Furthermore, if a valid collective bargaining agreement covering any of the employees in a proposed unit is in effect, a petition for certification may be filed with the ~~office commission~~ only during the period extending from 150 days to 90 days immediately preceding the expiration date of that agreement, or at any time subsequent to its expiration date but prior to the effective date of any new agreement. The effective date of a collective bargaining agreement means the date of ratification by both parties, if the agreement becomes effective immediately or retroactively; or its actual effective date, if the agreement becomes effective after its ratification date.

(4) In defining a proposed bargaining unit, the ~~office commission~~ shall take into consideration:

(a) The principles of efficient administration of government.

(b) The number of employee organizations with which the employer might have to negotiate.

(c) The compatibility of the unit with the joint responsibilities of the public employer and public employees to represent the public.

(d) The power of the officials of government at the level of the unit to agree, or make effective recommendations to another administrative authority or to a legislative body, with respect to matters of employment upon which the employee desires to negotiate.

(e) The organizational structure of the public employer.

(f) Community of interest among the employees to be included in the unit, considering:

1. The manner in which wages and other terms of employment are determined.

2. The method by which jobs and salary classifications are determined.

3. The interdependence of jobs and interchange of employees.

4. The desires of the employees.

5. The history of employee relations within the organization of the public employer concerning organization and negotiation and the interest of the employees and the employer in the continuation of a traditional, workable, and accepted negotiation relationship.

(g) The statutory authority of the public employer to administer a classification and pay plan.

(h) Such other factors and policies as the ~~office commission~~ may deem appropriate.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

Section 159. Effective January 1, 2002, section 447.308, Florida Statutes, is amended to read:

447.308 Revocation of certification of employee organization.—

(1) Any employee or group of employees which no longer desires to be represented by the certified bargaining agent may file with the ~~office commission~~ a petition to revoke certification. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented for purposes of collective bargaining by the certified bargaining agent. The time of filing said petition shall be governed by the provisions of s. 447.307(3)(d) relating to petitions for certification. Any employee or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid

shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition. The ~~office commission~~ or one of its designated agents shall investigate the petition to determine its sufficiency. If the ~~office commission~~ finds the petition to be insufficient, it may dismiss the petition. If the ~~office commission~~ finds that the petition is sufficient, it shall immediately:

(a) Identify the bargaining unit and determine which public employees shall be qualified and entitled to vote in the election held by the ~~office commission~~.

(b) Identify the public employer or employers.

(c) Order an election by secret ballot, the cost of ~~which is said election~~ to be borne equally by the parties, except as the ~~office commission~~ may provide by rule. The ~~office's commission's~~ order assessing costs of an election may be enforced pursuant to the provisions of this part.

(2) If a majority of the employees voting in such election vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the bargaining unit shall be revoked.

(3) If a majority of the employees voting in such election do not vote against the continuation of representation by the certified bargaining agent, the certification of the employee organization as the exclusive bargaining agent for the employees in the unit shall be retained by the organization.

Section 160. Effective January 1, 2002, subsection (4) of section 447.309, Florida Statutes, is amended to read:

447.309 Collective bargaining; approval or rejection.—

(4) If the agreement is not ratified by the public employer or is not approved by a majority vote of employees voting in the unit, in accordance with procedures adopted by the ~~office commission~~, the agreement shall be returned to the chief executive officer and the employee organization for further negotiations.

Section 161. Effective January 1, 2002, section 447.403, Florida Statutes, is amended to read:

447.403 Resolution of impasses.—

(1) ~~If~~, After a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, ~~if~~ a dispute ~~still~~ exists between a public employer and a bargaining agent, an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the ~~office commission~~.

(2) When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint, or secure the appointment of, a mediator to assist in the resolution of the impasse. *Nothing in this section precludes the parties from using the services of a mediator at any time during the conduct of collective bargaining.*

(3)(a)(2) If no mediator is appointed, or upon the request of either party, the ~~office commission~~ shall appoint, and submit all unresolved issues to, a special master acceptable to both parties. If the parties are unable to agree on the appointment of a special master, the ~~office commission~~ shall appoint, in its discretion, a qualified special master. However, if the parties agree in writing to waive the appointment of a special master, the parties may proceed directly to resolution of the impasse by the legislative body pursuant to paragraph (4)(d). ~~Nothing in this section precludes the parties from using the services of a mediator at any time during the conduct of collective bargaining.~~

(b)(3) The special master shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at *reasonable* times, dates, and places to be established by the special master in accordance with rules promulgated by the ~~office commission~~. The special master shall be empowered to

administer oaths and issue subpoenas on behalf of the parties to the dispute or on his or her own behalf. Within 15 calendar days after the close of the final hearing, the special master shall transmit his or her recommended decision to the ~~office commission~~ and to the representatives of both parties by registered mail, return receipt requested. Such recommended decision shall be discussed by the parties, and each recommendation of the special master shall be deemed approved by both parties unless specifically rejected by either party by written notice filed with the ~~office commission~~ within 20 calendar days after the date the party received the special master's recommended decision. The written notice shall include a statement of the cause for each rejection and shall be served upon the other party.

(4) In the event that either the public employer or the employee organization does not accept, in whole or in part, the recommended decision of the special master:

(a) The chief executive officer of the governmental entity involved shall, within 10 days after rejection of a recommendation of the special master, submit to the legislative body of the governmental entity involved a copy of the findings of fact and recommended decision of the special master, together with the chief executive officer's recommendations for settling the disputed impasse issues. The chief executive officer shall also transmit his or her recommendations to the employee organization. If the dispute involves employees for whom the Board of Regents is the public employer, the Governor may also submit recommendations to the legislative body for settling the disputed impasse issues.;

(b) The employee organization shall submit its recommendations for settling the disputed impasse issues to such legislative body and to the chief executive officer.;

(c) The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the rejected recommendations of the special master.;

(d) Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved, to resolve all disputed impasse issues. ~~and~~

(e) Following the resolution of the disputed impasse issues by the legislative body, the parties shall reduce to writing an agreement which includes those issues agreed to by the parties and those disputed impasse issues resolved by the legislative body's action taken pursuant to paragraph (d). The agreement shall be signed by the chief executive officer and the bargaining agent and shall be submitted to the public employer and to the public employees who are members of the bargaining unit for ratification. If such agreement is not ratified by all parties, pursuant to the provisions of s. 447.309, the legislative body's action taken pursuant to the provisions of paragraph (d) shall take effect as of the date of such legislative body's action for the remainder of the first fiscal year which was the subject of negotiations; however, the legislative body's action shall not take effect with respect to those disputed impasse issues which establish the language of contractual provisions which could have no effect in the absence of a ratified agreement, including, but not limited to, preambles, recognition clauses, and duration clauses.

Section 162. Effective January 1, 2002, section 447.4095, Florida Statutes, is amended to read:

447.4095 Financial urgency.—In the event of a financial urgency requiring modification of an agreement, the chief executive officer or his or her representative and the bargaining agent or its representative shall meet as soon as possible to negotiate the impact of the financial urgency. If after a reasonable period of negotiation which shall not exceed 14 days, a dispute exists between the public employer and the bargaining agent, an impasse shall be deemed to have occurred, and one of the parties shall so declare in writing to the other party and to the ~~office commission~~. The parties shall then proceed pursuant to the provisions of s. 447.403. An unfair labor practice charge shall not be filed during the 14 days during which negotiations are occurring pursuant to this section.

Section 163. Effective January 1, 2002, section 447.503, Florida Statutes, is amended to read:

447.503 Charges of unfair labor practices.—It is the intent of the Legislature that the ~~office commission~~ act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the ~~office commission~~ in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(1) A proceeding to remedy a violation of the provisions of s. 447.501 shall be initiated by the filing of a charge with the ~~office commission~~ by an employer, employee, or employee organization, or any combination thereof. Such a charge shall contain a clear and concise statement of facts constituting the alleged unfair labor practice, including the names of all individuals involved in the alleged unfair labor practice, specific reference to the provisions of s. 447.501 alleged to have been violated, and such other relevant information as the ~~office commission~~ may by rule require or allow. Service of the charge shall be made upon each named respondent at the time of filing with the ~~office commission~~. The charge must be accompanied by sworn statements and documentary evidence sufficient to establish a prima facie violation of the applicable unfair labor practice provision. Such supporting evidence is not to be attached to the charge and is to be furnished only to the ~~office commission~~.

(2) The ~~office commission~~, or any agent designated by it for such purpose, shall thereupon review the charge to determine its sufficiency.

(a) If upon review it is determined that the charge is insufficient, the ~~office commission~~ or its designated agent may issue a summary dismissal of the charge. A charging party whose charge is dismissed by a designated agent may appeal the dismissal to the ~~office commission~~ within 20 days after the date of issuance of the dismissal. If the ~~office commission~~ finds the charge to be sufficient, it shall reinstate the charge.

(b) If upon review it is determined that the charge is sufficient, the ~~office commission~~ shall notify the parties. Each respondent so charged shall thereupon file an answer to the charge with the ~~office commission~~, and serve a copy upon the charging party, no more than 20 days after service of notification of the sufficiency of the charge, unless otherwise allowed by the ~~office commission~~. The ~~office commission~~, in its discretion, may allow a charge or answer to be amended at any time. The ~~office commission~~ may also, in its discretion, allow other interested parties to intervene in the proceeding.

(3) Whenever a charging party alleges that a respondent has engaged in unfair labor practices and that the charging party will suffer substantial and irreparable injury if not granted temporary relief, the ~~office commission~~ may petition the circuit court for appropriate injunctive relief pending the final adjudication by the ~~office commission~~ with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof to be served upon the parties and, thereupon, shall have jurisdiction to grant such temporary relief or restraining order as it deems just and proper.

(4) The ~~office commission~~ may issue prehearing orders requiring the parties to provide written statements of relevant issues of fact and law and such other information as the ~~office commission~~ may require to expedite the resolution of the case. Such orders may further direct the parties to identify witnesses, exchange intended exhibits and documentary evidence, and appear at a conference before the ~~office commission~~ or an ~~employee a member~~ thereof, or a ~~designated hearing officer~~, for the purpose of handling such matters as will aid the ~~office commission~~ in expeditiously resolving the case before it.

(5) Whenever the proceeding involves a disputed issue of material fact and an evidentiary hearing is to be conducted:

(a) The ~~office commission~~ shall issue and serve upon all parties a notice of hearing before a ~~person an~~ assigned pursuant to paragraph (b)

hearing officer at a time and place specified therein. Such notice shall be issued at least 14 days prior to the scheduled hearing.

(b) The evidentiary hearing shall be conducted by a *person designated by the executive director of the office who is an office employee and a member of The Florida Bar or an agent designated by the executive director who is a member of The Florida Bar* ~~hearing officer designated by the commission. Said hearing officer may be the commission itself, a member of the commission, or an agent designated by the commission for such purpose, provided that such agent shall be an employee of the commission and a member of The Florida Bar.~~

(c) Not later than 45 days after the close of the evidentiary hearing, unless extended by the ~~office commission~~ with the consent of all parties, the *person conducting the hearing* ~~officer~~ shall submit to the ~~office commission~~ and to all parties a recommended order which shall include findings of fact and recommended rulings on procedural matters. The recommended order may also include recommended conclusions of law if requested by the ~~office commission~~.

~~(d) If the hearing was held before the commission or a member of the commission, the commission may elect to issue a final order which is in compliance with ss. 120.569 and 120.57.~~

(6)(a) If, upon consideration of the record in the case, the ~~office commission~~ finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the ~~office commission~~ shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged *as otherwise provided by law for cause*. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the ~~office commission~~ finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

(b) If the ~~office commission~~ determines that the alleged unfair labor practice occurred more than 6 months prior to the filing of the charge, the ~~office commission~~ shall issue an order dismissing the case, unless the person filing the charge was prevented from doing so by reason of service in the Armed Forces, in which case the 6-month period shall run from the date of the person's discharge.

(c) The ~~office commission~~ may award to the prevailing party all or part of the costs of litigation, reasonable attorney's fees, and expert witness fees whenever the ~~office commission~~ determines that such an award is appropriate.

(d) Final orders of the ~~office commission~~ issued pursuant to this section shall be enforced pursuant to the provisions of s. 447.5035 and shall be reviewed pursuant to the provisions of s. 447.504.

Section 164. Effective January 1, 2002, section 447.5035, Florida Statutes, is amended to read:

447.5035 Enforcement of ~~office commission~~ orders.—In case of any failure by any employer, employee, or employee organization to comply with any order of the ~~office commission~~, upon application of the ~~office commission~~ or, notwithstanding the provisions of s. 120.69(1)(b)1., upon application of any person who is a resident of the state and who is substantially interested in such order, any circuit court of this state shall have jurisdiction to enforce the order pursuant to the provisions of s. 120.69. However, if one or more petitions for enforcement and a notice of appeal involving the same agency action are pending at the same time, the district court of appeal considering the notice of appeal shall order all such actions transferred to and consolidated in the district court of appeal. If a petition for enforcement is filed after the time for filing notice of appeal has expired, the respondent may assert as a defense only that the agency action was not intended to apply to respondent or that respondent has complied with the agency action. Petitions for enforcement filed under this part shall be heard

expeditiously by the circuit court to which presented and shall take precedence over all other civil matters except prior matters of the same character.

Section 165. Effective January 1, 2002, section 447.504, Florida Statutes, is amended to read:

447.504 Judicial review.—

(1) *Except with respect to voluntary binding arbitration orders as otherwise provided for in s. 109.240*, the district courts of appeal are empowered, upon the filing of appropriate notices of appeal, to review final orders of the *office commission* pursuant to s. 120.68. A copy of the notice of appeal shall be filed with the *office commission*. The record in the proceeding, certified by the *office commission*, shall be filed with the court in accordance with the Florida Rules of Appellate Procedure.

(2) Upon the filing of a notice of appeal, the appropriate district court of appeal shall thereupon have jurisdiction of the proceeding and may grant such temporary or permanent relief or restraining order as it deems just and proper and may enforce, modify, affirm, or set aside, in whole or in part, the order of the *office commission*. The findings of the *office commission* with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(3) The court may award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees whenever the court determines that such an award is appropriate. However, no such costs or fees shall be assessed against the *office commission* in any appeal from an order issued by the *office commission* in an adjudicatory proceeding between adversary parties conducted pursuant to this part.

(4) The commencement of proceedings under this section shall not, unless specifically ordered by the district court of appeal, operate as a stay of the *office's commission's* order.

(5) Appeals filed under this part shall be heard expeditiously by the district court of appeal to which presented and shall take precedence over all other civil matters except prior matters of the same character.

Section 166. Effective January 1, 2002, section 447.507, Florida Statutes, is amended to read:

447.507 Violation of strike prohibition; penalties.—

(1) Circuit courts having jurisdiction of the parties are vested with the authority to hear and determine all actions alleging violations of s. 447.505. Suits to enjoin violations of s. 447.505 will have priority over all matters on the court's docket except other emergency matters.

(2) If a public employee, a group of employees, an employee organization, or any officer, agent, or representative of any employee organization engages in a strike in violation of s. 447.505, either the *office commission* or any public employer whose employees are involved or whose employees may be affected by the strike may file suit to enjoin the strike in the circuit court having proper jurisdiction and proper venue of such actions under the Florida Rules of Civil Procedure and Florida Statutes. The circuit court shall conduct a hearing, with notice to the *office commission* and to all interested parties, at the earliest practicable time. If the plaintiff makes a prima facie showing that a violation of s. 447.505 is in progress or that there is a clear, real, and present danger that such a strike is about to commence, the circuit court shall issue a temporary injunction enjoining the strike. Upon final hearing, the circuit court shall either make the injunction permanent or dissolve it.

(3) If an injunction to enjoin a strike issued pursuant to this section is not promptly complied with, on the application of the plaintiff, the circuit court shall immediately initiate contempt proceedings against those who appear to be in violation. An employee organization found to be in contempt of court for violating an injunction against a strike shall be fined an amount deemed appropriate by the court. In determining the appropriate fine, the court shall objectively consider the extent of lost services and the particular nature and position of the employee group in

violation. In no event shall the fine exceed \$5,000. Each officer, agent, or representative of an employee organization found to be in contempt of court for violating an injunction against a strike shall be fined not less than \$50 nor more than \$100 for each calendar day that the violation is in progress.

(4) An employee organization shall be liable for any damages which might be suffered by a public employer as a result of a violation of the provisions of s. 447.505 by the employee organization or its representatives, officers, or agents. The circuit court having jurisdiction over such actions is empowered to enforce judgments against employee organizations, as defined in this part, by attachment or garnishment of union initiation fees or dues which are to be deducted or checked off by public employers. No action shall be maintained pursuant to this subsection until all proceedings which were pending before the *office commission* at the time of the strike or which were initiated within 30 days of the strike have been finally adjudicated or otherwise disposed of. In determining the amount of damages, if any, to be awarded to the public employer, the trier of fact shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees. The trier of fact shall also take into consideration any damages that might have been recovered by the public employer under subparagraph (6)(a)4.

(5) If the *office commission*, after a hearing on notice conducted according to rules promulgated by the *office commission*, determines that an employee has violated s. 447.505, it may order the termination of his or her employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of 18 6 months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without *permanent status and at the pleasure of the agency head tenure*. ~~During this period, the person may be discharged only upon a showing of just cause.~~

(b) His or her compensation may in no event exceed that received immediately prior to the time of the violation.

(c) The compensation of the person may not be increased until after the expiration of 1 year from such appointment, reappointment, employment, or reemployment.

(6)(a) If the *office commission* determines that an employee organization has violated s. 447.505, it may:

1. Issue cease and desist orders as necessary to ensure compliance with its order.

2. Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.

3. Revoke the right of dues deduction and collection previously granted to said employee organization pursuant to s. 447.303.

4. Fine the organization up to \$20,000 for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed \$20,000 for each such calendar day. The fines so collected shall immediately accrue to the public employer and shall be used by him or her to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the *office commission* shall take into consideration any action or inaction by the public employer or its agents that provoked, or tended to provoke, the strike by the public employees.

(b) An organization determined to be in violation of s. 447.505 shall not be certified until 1 year from the date of final payment of any fine against it.

Section 167. Effective July 1, 2001, section 447.607, Florida Statutes, is amended to read:

447.607 ~~Office Commission~~ rules; powers retained by the Legislature.—The Legislature shall retain the right to approve, amend, or rescind all rules promulgated by the ~~office commission~~ pursuant to this part. In the absence of legislative action to the contrary, all rules shall have full force and effect.

Section 168. Effective June 30, 2002, subsection (7) of section 20.171, Florida Statutes, is amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(7) The *Unemployment Appeals Commission* is ~~following commissions~~ established within the Department of Labor and Employment Security.:

(a) ~~Public Employees Relations Commission.~~

(b) ~~Unemployment Appeals Commission.~~

Section 169. Effective January 1, 2002, paragraph (m) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (4), shall be granted only to the following persons, officials, and agencies:

(m) The *Office of Employee Relations within the Department of Management Services* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted appeals* filed pursuant to s. 109.240 ~~447-207~~. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

Section 170. Effective January 1, 2002, subsection (4) of section 112.044, Florida Statutes, as amended by this act, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state ~~who is within the Career Service System established by chapter 109 and~~ who is aggrieved by a violation of this act may appeal to the ~~Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may~~ bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act, ~~unless voluntary binding arbitration is conducted pursuant to s. 109.240.~~

Section 171. Effective January 1, 2002, paragraph (b) of subsection (6), subsection (14), and paragraph (a) of subsection (15) of section 112.0455, Florida Statutes, are amended to read:

112.0455 Drug-Free Workplace Act.—

(6) NOTICE TO EMPLOYEES.—

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.

5. The consequences of refusing to submit to a drug test.

6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission.~~

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission~~. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. 447.401. ~~Such appeals shall be resolved pursuant to the procedures established in ss. 447.207(1)(4), 447.208(2), and 447.503(4) and (5).~~ A hearing on the appeal shall be conducted within 30 days ~~after~~ of the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the ~~court commission~~ or a *collective bargaining grievance* ~~an~~ arbitrator.

(b) ~~The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.~~

(c) ~~Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However, Nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. 447.401 provided that an employee or job applicant may not file both an appeal and a grievance.~~

(d) ~~An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance arbitration process.~~

~~(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:~~

~~1. Revoke the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.~~

~~2. Order compliance with paragraph (10)(g).~~

~~3. Award back pay and benefits.~~

~~(b)4. The court may award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.~~

(15) NONDISCIPLINE REMEDIES.—

(a) Any person alleging a violation of the provisions of this section, that is not remediable by the commission or an arbitrator pursuant to subsection (14), must institute a civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.

2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

Section 172. Effective July 1, 2001, paragraph (a) of subsection (8) of section 112.215, Florida Statutes, is amended to read:

112.215 Government employees; deferred compensation program.—

(8)(a) There is hereby created a Deferred Compensation Advisory Council composed of seven members.

1. One member shall be appointed by the Speaker of the House of Representatives and the President of the Senate jointly and shall be an employee of the legislative branch.

2. One member shall be appointed by the Chief Justice of the Supreme Court and shall be an employee of the judicial branch.

3. One member shall be appointed by the *executive board of the Office of Employee Relations within the Department of Management Services* ~~chair of the Public Employees Relations Commission~~ and shall be a nonexempt public employee.

4. The remaining four members shall be employed by the executive branch and shall be appointed as follows:

a. One member shall be appointed by the Chancellor of the State University System and shall be an employee of the university system.

b. One member shall be appointed by the Treasurer and shall be an employee of the Treasurer.

c. One member shall be appointed by the Governor and shall be an employee of the executive branch.

d. One member shall be appointed by the Comptroller and shall be an employee of the Comptroller.

Section 173. Effective July 1, 2001, paragraph (a) of subsection (3) and subsection (4) of section 112.31895, Florida Statutes, are amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, ~~the Public Employees Relations Commission~~, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before *an* ~~the Public Employees Relations Commission or any other appropriate~~ agency, except that the Florida Commission on Human Relations must comply with the rules of *that* ~~the commission or other~~ agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(4) RIGHT TO APPEAL.—

~~(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file for judicial review of the notice of termination as provided for in s. 120.68. The notice of termination of the investigation, which shall contain a statement of facts, analysis, and conclusions, shall be considered final agency action for purposes of s. 120.68., with the Public Employees Relations Commission, a complaint against the hearings regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).~~

~~(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.~~

Section 174. Effective July 1, 2001, subsection (12) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(12) OFFICE OF EMPLOYEE RELATIONS PUBLIC EMPLOYEES RELATIONS COMMISSION.—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the *Office of Employee Relations within the Department of*

~~Management Services Public Employees Relations Commission~~ need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

Section 175. Paragraph (d) of subsection (2) of section 125.0108, Florida Statutes, is repealed.

Section 176. Paragraph (b) of subsection (9) of section 376.75, Florida Statutes, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(9)

~~(b) The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.~~

Section 177. Paragraph (b) of subsection (3) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(3)

~~(b) The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.~~

Section 178. Section 538.11, Florida Statutes, is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. ~~The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.~~

Section 179. Effective July 1, 2001, section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the Department of

Insurance and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation ~~or for awards by the Public Employees Relations Commission.~~ A party to a suit in any court, to be entitled to have his or her attorney's fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Insurance; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 180. Effective July 1, 2001, section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation ~~or for awards by the Public Employees Relations Commission.~~ Unless specifically excluded by the Department of Insurance, the insurance risk management trust fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Insurance.

Section 181. Effective January 1, 2002, section 295.11, Florida Statutes, is amended to read:

295.11 Investigation; administrative hearing for not employing preferred applicant.—

(1) The Department of Veterans' Affairs or its designee shall, upon the written request of any person specified in s. 295.07, investigate any complaint filed with the department by such person when the person has applied to any state agency or any agency of a political subdivision in the state for a position of employment which was awarded to a nonveteran and the person feels aggrieved under this chapter. The Department of Veterans' Affairs shall review each case and ~~may issue an opinion to the Public Employees Relations Commission as to the merit or lack of merit in each case. The investigation must be accomplished within existing amounts appropriated to the department.~~

(2) Upon completion of the investigation, the department shall furnish a copy of the investigative findings to the complainant and to the agency involved.

~~(3) When a satisfactory resolution to the complaint is not forthcoming, any department of the state or political subdivision in the state may testify telephonically or in person at the discretion of the Public Employees Relations Commission. The complainant, however, may be represented at the hearing by counsel of his or her choice at his or her expense.~~

~~(3)(4) Jurisdiction to effectuate the purposes of ss. 295.07-295.09 shall vest with the circuit court, unless voluntary binding arbitration is appropriate as provided for by s. 109.240 Public Employees Relations Commission for appropriate administrative determination. If, upon preliminary review of the Public Employees Relations Commission, the commission agrees with the department's determination that a case lacks merit and finds, in its discretion, that there was a complete absence of justiciable issues of either law or fact raised by the veterans' preference complaint, the Public Employees Relations Commission shall dismiss the complaint without the necessity of holding a hearing.~~

Section 182. Effective January 1, 2002, section 295.14, Florida Statutes, is amended to read:

295.14 Penalties.—

(1) When the ~~court~~ ~~Public Employees Relations Commission, after a hearing on notice conducted according to rules adopted by the commission,~~ determines that a violation of s. 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b) has occurred ~~and sustains the veteran seeking redress,~~ the ~~court~~ ~~commission~~ shall order the offending agency, employee, or officer of the state to comply with the provisions of s. 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b); and, in the event of a violation of s. 295.07, s. 295.08, s. 295.085, or s. 295.09(1)(a) or (b), the ~~court~~ ~~commission~~ may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours worked, ~~and costs of all work, including litigation, incurred as a result of such violation, which order shall be conclusive on the agency, employee, or officer concerned.~~ The attorney's fees and costs may not exceed \$10,000. ~~The action of the commission shall be in writing and shall be served on the parties concerned by certified mail with return receipt requested.~~

(2) ~~When reparation is sought through civil action in a court of competent jurisdiction,~~ Any agency, employee, or officer of the state or a political subdivision thereof found in violation of any provision of this act shall, in addition to any other edict issued by the court, be required to pay the costs of suit and reasonable attorney's fees incurred in such action and shall be required to pay as damages such amount as the court may award, any law to the contrary notwithstanding.

(2)(3) Any employee or officer found liable pursuant to a second or subsequent violation of the provisions of this section shall forfeit his or her position.

Section 183. Effective January 1, 2002, paragraph (k) of subsection (3) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(k) The *Office of Employee Relations within the Department of Management Services* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted appeals filed* pursuant to s. 109.240 ~~447-207~~. Records may be released only after deletion of all information that specifically identifies persons other than the employee.

Section 184. Effective January 1, 2002, paragraph (a) of subsection (3) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, prior to testing, an employer shall give all employees and job applicants for employment a written policy statement which contains:

1. ~~A general statement of~~ The employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. ~~Notification to A statement advising~~ the employee or job applicant of the existence of this section.

3. ~~Provisions A general statement~~ concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications to a medical review officer both before and after being tested.

5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the Division of Workers' Compensation of the Department of Labor and Employment Security.

6. The consequences of refusing to submit to a drug test.

7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.

8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

9. ~~Notification to A statement informing~~ the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10. A list of all drugs for which the employer will test, described by brand name or common name, as applicable, as well as by chemical name.

11. ~~Notification A statement~~ regarding any applicable collective bargaining agreement or contract and ~~any appeal rights the right to appeal to the Public Employees Relations Commission or applicable court.~~

12. ~~Notification to the employee or A statement notifying employees and job applicant applicants of his or her their~~ right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.

Section 185. *Effective January 1, 2002, paragraph (c) of subsection (3) of section 944.35, Florida Statutes, and paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, are repealed.*

Section 186. *The Office of Employee Relations within the Department of Management Services shall coordinate the development and implementation of a transition plan that supports the implementation of this act. The Department of Labor and Employment Security, the Public Employees Relations Commission, and all other state agencies identified by the office shall cooperate fully in developing and implementing the plan and shall dedicate the financial and staff resources that are necessary for such implementation.*

Section 187. (1) *Until July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to the authority granted it under the Florida Statutes 2000.*

(2) *On and after July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to this act's amendments which take effect July 1, 2001. As to those cases within the Public Employees Relations Commission jurisdiction that are pending before the commission on January 1, 2002, the commission shall continue to exercise its authority in order to finalize those existing cases under review and phase out the operation of the commission.*

(3) *The commissioners of the Public Employees Relations Commission transferred to the Office of Employee Relations on January 1, 2002, by this act may continue to exercise their authority as*

commissioners of the Public Employees Relations Commission solely with respect to those cases pending before the commission on that date, until June 30, 2002.

(4) After June 30, 2002, the Public Employees Relations Commission shall cease to exist.

Section 188. *There is appropriated to the Department of Management Services for fiscal year 2000-2001, \$26,208 of nonrecurring general revenue for the purpose of establishing an administrative staff to implement the provisions of this act.*

Section 189. *There are appropriated 18 full-time equivalent positions and \$1,331,289 in recurring general revenue for the purpose of staffing the recurring operations of the Office of Employee Relations. The annualized salary and expense amounts shall not exceed \$2.1 million.*

Section 190. *There is appropriated \$2,885,327 in nonrecurring general revenue for the Public Employees Relations Commission for fiscal year 2001-2002. Any resources not needed shall be placed in reserve by the Executive Office of the Governor pursuant to s. 216.177, Florida Statutes.*

Section 191. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public employees; renumbering parts I, II, III, IV, and V of ch. 110, F.S., as parts I, II, III, IV, and V of ch. 109, F.S.; amending and renumbering s. 110.107, F.S.; revising definitions; repealing s. 110.108, F.S., relating to pilot projects for agencies seeking managerial flexibility for personnel programs, s. 110.109, F.S., relating to personnel audits of agencies, and s. 110.1095, F.S., relating to training programs for supervisors and managers; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; amending and renumbering s. 110.112, F.S.; providing policy relating to use of human resources; revising provisions relating to implementation of affirmative action plans by agency heads, state attorneys, and public defenders; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.124, F.S.; providing that an employee who is terminated solely because of attaining age 65 may apply to the circuit court for relief if voluntary binding arbitration is not conducted; amending and renumbering s. 110.1245, F.S.; providing for a savings sharing program of awards for certain state agency and judicial branch employees; requiring a report; providing for annual bonus payments to employees; directing agency heads to develop a plan for awarding bonuses and providing requirements with respect thereto; authorizing department heads to incur expenditures for certain awards; repealing s. 110.1246, F.S., which provides for lump-sum bonus payments to employees; amending and renumbering s. 110.131, F.S.; revising the time limitation on employment of other-personal-services temporary employees; requiring approval of the Governor's Office of Policy and Budget for extensions of such limitations; revising exemptions from such limitation; amending and renumbering s. 110.203, F.S.; revising definitions; revising the definition of "layoff" to include outsourcing or privatization; creating s. 109.2035, F.S.; directing the Department of Management Services, in consultation with specified entities, to develop a model civil service classification and compensation program and providing requirements with respect thereto; directing the department to establish guidelines regarding certain types of pay and providing duties of agencies with respect thereto; amending and renumbering s. 110.205, F.S.; providing additional positions that are exempt from the Career Service System and included in the Selected Exempt Service; providing that when an employee transfers from the Career Service System to the Selected Exempt Service, unused leave shall carry forward and not be paid out; repealing ss. 109.207 and 109.209, F.S., as renumbered by the act, relating to establishment and maintenance of a uniform classification plan and an equitable pay plan and related agency duties; amending

and renumbering ss. 110.211 and 110.213, F.S.; revising requirements with respect to recruitment and selection; amending and renumbering s. 110.219, F.S.; providing requirements regarding leave benefits for Senior Management Service employees; providing for an annual payout of unused annual leave for career service employees; amending and renumbering s. 110.224, F.S.; revising requirements relating to a review and performance planning system and designating such system a review and performance evaluation system; revising requirements relating to certain information furnished to employees and employee evaluation; amending and renumbering s. 110.227, F.S.; providing that a career service employee other than a law enforcement or correctional officer or a firefighter may be suspended or dismissed for reasonable cause; providing that reasonable cause shall be determined by the agency head and specifying actions included thereunder; revising certain responsibilities of agency heads; providing that, except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area with regard to employees other than law enforcement or correctional officers or firefighters; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; providing that, for any alleged adverse agency action against an employee other than a law enforcement or correctional officer or a firefighter occurring after a specified date, the employee bears the burden of proof to establish that the agency head abused his or her discretion; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employee's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the office; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit court for an order confirming, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering s. 110.605, F.S.; deleting provisions relating to development of a program of affirmative and positive action for the Selected Exempt Service by the department; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 447.207, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 216.262, F.S.; authorizing efficiency awards to state agencies based on changes to authorized positions and providing requirements with respect thereto; amending s. 447.201, F.S.; revising the statement of public policy regarding public employees; amending s. 447.203, F.S.; revising definitions for purposes of part II of ch. 447, F.S., relating to public employees; repealing s. 447.203(1)(b) and (3)(h), F.S., which define the Public Employees Relations Commission and exempt its employees from the definition of "public employee," and s. 447.205, F.S., which creates the commission, effective June 30, 2002; creating s. 447.204, F.S.; creating an Office of Employee Relations within the Department of Management Services; providing for an executive director, an executive board, a general counsel, and an administrative assistant, and their qualifications and duties; providing

for additional personnel; providing duties of the department; providing powers and duties of the office; amending s. 447.207, F.S.; transferring general powers of the commission and powers relating to collective bargaining to the office; directing the office to provide for voluntary binding arbitration with regard to certain adverse actions and discrimination in lieu of appeals to the commission; providing that the commission shall retain certain authority until June 30, 2002; amending s. 447.208, F.S.; providing the employee's burden of proof for alleged adverse agency actions occurring on or after July 1, 2001; repealing s. 447.208, F.S., which provides procedures for appeals to the commission regarding certain adverse agency actions, and s. 447.2085, F.S., which provides for rules with respect thereto, effective January 1, 2002; amending s. 447.301, F.S.; conforming language; amending ss. 447.305, 447.307, 447.308, 447.309, and 447.403, F.S.; transferring powers and duties relating to registration and certification of employee organizations, adoption of procedures relating to collective bargaining agreements, and resolution of impasses from the commission to the office; increasing the registration fee; amending s. 447.4095, F.S.; conforming language; amending s. 447.503, F.S.; transferring powers relating to settling of unfair labor practices disputes from the commission to the office; providing for persons conducting evidentiary hearings; amending s. 447.5035, F.S.; providing for enforcement of division orders; amending s. 447.504, F.S., which provides for judicial review of final orders, to conform; amending s. 447.507, F.S.; transferring powers and duties relating to enforcement of the strike prohibition from the commission to the office; revising conditions under which a person who violates such prohibition may be employed or appointed; amending s. 447.607, F.S.; conforming language; amending s. 20.171, F.S.; conforming language; amending s. 39.202, F.S.; providing for access to certain records by the office; amending s. 112.044, F.S., which prohibits age discrimination against public employees; providing for court action by an aggrieved employee if voluntary binding arbitration is not conducted; amending s. 112.0455, F.S., the Drug-Free Workplace Act; providing for appeals with respect to discipline or not being hired under said act to the circuit court rather than the commission, or for voluntary finding arbitration; amending s. 112.215, F.S.; providing for appointment of members of the Deferred Compensation Advisory Council by the executive board of the office rather than the commission; amending s. 112.31895, F.S.; providing for judicial review of notice of termination of an investigation in connection with the Whistle-blower's Act rather than commission review; amending s. 120.80, F.S.; conforming language; repealing s. 125.0108(2)(d), F.S., and amending ss. 376.75, 403.718, and 538.11, F.S.; removing provisions which authorize certain actions by the Department of Revenue pursuant to rules of the commission or the Career Service Commission; amending ss. 284.30 and 284.31, F.S.; conforming language; amending ss. 295.11 and 295.14, F.S.; providing that the circuit court, rather than the commission, has jurisdiction to enforce provisions relating to employment preference for veterans if voluntary binding arbitration is not appropriate; amending s. 415.107, F.S.; providing for access to certain records by the office; amending s. 440.102, F.S.; conforming language; repealing ss. 944.35(3)(c) and 985.4045(1)(b), F.S., which provide that violations by Department of Corrections employees of prohibitions against malicious battery and sexual misconduct, and violations by Department of Juvenile Justice employees of the prohibition against sexual misconduct, as determined by the commission, constitute cause for dismissal; directing the office to coordinate a transition plan; specifying transitional powers and duties of the commission and providing that it shall cease to exist June 30, 2002; providing appropriations and authorizing positions; providing effective dates.

Rep. Diaz-Balart moved the adoption of the amendment.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 205293)

Amendment 1 to Amendment 1—On page 21, line 2, remove from the amendment: *\$50*

and insert in lieu thereof: *\$100*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 961673)

Amendment 2 to Amendment 1—On page 22, line 22, of the amendment

insert after "individual": *or category of individuals*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 093177)

Amendment 3 to Amendment 1—On page 38, line 3 through page 39 line 2,

remove from the amendment: all of said lines

and insert in lieu thereof:

~~109.224~~ ~~110.224~~ *Public employee Review*—and performance evaluation ~~planning~~ system.—A *public employee review*—and performance ~~evaluation~~ ~~planning~~ system shall be established as a basis to *evaluate and improve* for ~~improving~~ the performance of the state's workforce, to ~~provide documentation in support of recommendations for salary increases, promotions, demotions, reassignments, or dismissals;~~ to inform employees of strong and weak points in the employee's performance, to ~~identify improvements expected, and current and future training needs, and to award lump-sum bonuses in accordance with s. 109.1245(2); and to assist in determining the order of layoff and~~ *reemployment.*

(1) Upon original appointment, promotion, demotion, or reassignment, a *job description of the position assigned each career service employee* must be made available to the career service employee ~~given a statement of the work expectations and performance standards applicable to the position.~~ The *job description may be made available in an electronic format. statement may be included in the position description or in a separate document.* An employee will not be required to meet work expectations or performance standards that have not been furnished in writing to the employee.

(2) Each employee must have a *employee's performance evaluation* must be reviewed at least annually, and the employee must receive a ~~copy an oral and written assessment~~ of his or her performance evaluation. The *performance evaluation assessment* may include a plan of ~~corrective~~ action for improvement of the employee's performance based on the work expectations or performance standards applicable to the position *as determined by the agency head.*

(3) The department may adopt rules to administer the *public employee review*—and performance evaluation ~~planning~~ system which

The Council for Smarter Government offered the following:

(Amendment Bar Code: 621549)

Amendment 4 to Amendment 1—On page 36, line 14, of the amendment

insert after the period: *An employee must successfully complete at least a 1-year probationary period before attainment of permanent status.*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 694591)

Amendment 5 to Amendment 1—On page 63, lines 24-27 remove from the amendment: all of said lines

and insert in lieu thereof:

(d)(e) The department shall develop a program of affirmative and positive actions that will ensure full utilization of women and minorities in Selected Exempt Service positions.

Rep. Diaz-Balart moved the adoption of the council amendments, which were adopted *en bloc*.

The question recurred on the adoption of **Amendment 1**, as amended.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 824029)

Substitute Amendment 1 (with title amendment)—

Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Section 110.105, Florida Statutes, is renumbered as section 109.105, Florida Statutes.*

Section 2. Section 110.107, Florida Statutes, is renumbered as section 109.107, Florida Statutes, and amended to read:

109.107 ~~110.107~~ Definitions.—As used in this chapter, the term:

(1) “Department” means the Department of Management Services.

(2)(3) “Furlough” means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue Estimating Conference pursuant to s. 216.136(3).

(3) “Office” means the Office of Employee Relations within the Department of Management Services.

(4)(2) “Secretary” means the Secretary of Management Services.

Section 3. *Sections 110.108 and 110.109, Florida Statutes, are repealed.*

Section 4. *Section 110.1082, Florida Statutes, is renumbered as section 109.1082, Florida Statutes.*

Section 5. Section 110.1091, Florida Statutes, is renumbered as section 109.1091, Florida Statutes, and amended to read:

109.1091 ~~110.1091~~ Program for assisting state employees; confidentiality.—*Each* employing state agency may provide a program to assist any of its state employees ~~employee~~ who have has a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects their the employee's job performance, through referral for counseling, therapy, or other professional treatment. Each employing state agency may designate community diagnostic and referral resources as necessary to implement the provisions of this section. Any communication between a state employee and personnel or service providers of a state employee assistance program relative to the employee's participation in the program shall be a confidential communication. Any routine monitoring of telephone calls by the state agency does not violate this provision. All records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. *Section 110.1095, Florida Statutes, is repealed.*

Section 7. Section 110.1099, Florida Statutes, is renumbered as section 109.1099, Florida Statutes, and amended to read:

109.1099 ~~110.1099~~ Education and training opportunities for state employees.—

(1) Education and training are an integral component in improving the delivery of services to the public. Recognizing that the application of productivity-enhancing technology and practice demand continuous educational and training opportunities, a state employee ~~employees~~ may be authorized to receive a fundable tuition waiver ~~waivers~~ on a space-available basis or a voucher ~~vouchers~~ to attend work-related courses at public universities. Student credit hours generated by state employee fee waivers shall be fundable credit hours.

(2) The department, in conjunction with the agencies, shall request that public universities ~~such institutions~~ provide evening and weekend

programs for state employees. When evening and weekend training and educational programs are not available, an employee ~~employees~~ may be authorized to take paid time off during his or her ~~their~~ regular working hours for training and career development, as provided in s. 109.105(1) ~~110.105(1)~~, if such training benefits the employer as determined by that employee's agency head.

(3) An employee ~~Employees~~ who exhibits ~~exhibit~~ superior aptitude and performance may be authorized by that employee's agency head to take a paid educational leave ~~leaves~~ of absence for up to 1 academic year at a time, for specific approved work-related education and training.

(4) That employee ~~Such employees~~ must enter into a contract ~~contracts~~ to return to state employment for a period of time equal to the length of the leave of absence or refund salary and benefits paid during his or her ~~their~~ educational leave ~~leaves~~ of absence.

(4)(6) As a precondition to approving an employee's training request, an agency or the judicial branch may require an employee to enter into an agreement that requires the employee to reimburse the agency or judicial branch for the registration fee or similar expense for any training or training series when the cost of the fee or similar expense exceeds \$1,000 if the employee voluntarily terminates employment or is discharged ~~for cause~~ from the agency or judicial branch within a specified period of time not to exceed ~~exceeding~~ 4 years after the conclusion of the training. This subsection does not apply to any training program that an agency or the judicial branch requires an the employee to attend. An agency or the judicial branch may pay the outstanding balance then due and owing on behalf of a state employee under this subsection in connection with recruitment and hiring of such state employee.

(5) The Department of Management Services, in consultation with the agencies and, to the extent applicable, Florida's public ~~universities~~ ~~postsecondary educational institutions~~, shall adopt rules to implement and administer this section.

Section 8. Section 110.112, Florida Statutes, is renumbered as section 109.112, Florida Statutes, and amended to read:

109.112 ~~110.112~~ Affirmative action; equal employment opportunity.—

(1) It is ~~shall be~~ the policy of this the state to fully utilize the rich diversity of Florida's human resources and to assist in providing the assurance of equal employment opportunity through education and other programs of affirmative and positive action that will allow the citizens of Florida to benefit from the full utilization of all available human resources ~~women and minorities~~.

(2)(a) The head of each executive agency and each state attorney and public defender shall develop and implement an affirmative action plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption.

(b) Each executive agency shall establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market, as defined by the agency. Each state attorney and public defender shall establish annual goals for ensuring full utilization of groups underrepresented in his or her workforce as compared to the relevant labor market, as defined by the state attorney or public defender. Each executive agency and each state attorney and public defender shall design the its affirmative action plan to meet the its established goals.

(c) An affirmative action-equal employment opportunity officer shall be appointed by the head of each executive agency and each state attorney and public defender. The affirmative action-equal employment opportunity officer's responsibilities shall ~~must~~ include determining annual goals, monitoring agency compliance, and providing consultation with to managers regarding progress, deficiencies, and appropriate corrective action.

(d) The department shall report information in its annual workforce report relating to the implementation, continuance, updating, and

results of each executive agency's affirmative action plan for the previous fiscal year.

(e) The department shall provide to all supervisory personnel of the executive agencies training in the principles of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and the establishment of annual affirmative action goals. The department may contract for training services, and each participating agency shall reimburse the department for costs incurred through such contract. After the department approves the contents of the training program for the agencies, the department may delegate this training to the executive agencies.

(3) Each state attorney and public defender shall:

(a) ~~Develop and implement an affirmative action plan.~~

(b) ~~Establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market in this state. The state attorneys' and public defenders' affirmative action plans must be designed to meet the established goals.~~

(c) ~~Appoint an affirmative action equal employment opportunity officer.~~

(d) report annually to the Justice Administrative Commission on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.

(4) The state, its agencies and officers shall ensure freedom from discrimination in employment as provided by the Florida Civil Rights Act of 1992, by s. 112.044, and by this chapter.

(5) Any individual claiming to be aggrieved by an unlawful employment practice may file a complaint with the Florida Commission on Human Relations as provided by s. 760.11(1) ~~760.10(10)~~.

(6) The department shall review and monitor executive agency actions in carrying out the rules adopted by the department pursuant to this section.

Section 9. Section 110.1127, Florida Statutes, is renumbered as section 109.1127, Florida Statutes, and subsection (1) of said section is amended to read:

~~109.1127 110.1127~~ Employee security checks.—

(1) Each employing agency shall designate *those employee* ~~such of its positions of state employment~~ which, because of the special trust or responsibility or sensitive location of *those* ~~such~~ positions, require that persons occupying *those* ~~such~~ positions be subject to a security background check, including fingerprinting, as a condition of employment.

Section 10. *Section 110.1128, Florida Statutes, is renumbered as section 109.1128, Florida Statutes.*

Section 11. Section 110.113, Florida Statutes, is renumbered as section 109.113, Florida Statutes, and, effective January 1, 2002, subsection (2) of said section is amended to read:

~~109.113 110.113~~ Pay periods for state officers and employees; salary payments by direct deposit.—

(2) As a condition of employment, a person appointed to a position in state government ~~on or after July 1, 1996~~, is required to participate in the direct deposit program pursuant to s. 17.076. ~~This subsection does not apply to persons who are in the employment of the state on July 1, 1996, and subsequently receive promotion appointments, transfers, or other changes in positions within the same personnel system after July 1, 1996. An employee may request an exemption from the provisions of this subsection when such employee can demonstrate a hardship or when such employee is in an other personal services position.~~

Section 12. *Sections 110.114, 110.115, 110.1155, 110.116, and 110.1165, Florida Statutes, are renumbered as sections 109.114,*

109.115, 109.1155, 109.116, and 109.1165, Florida Statutes, respectively.

Section 13. Section 110.117, Florida Statutes, is renumbered as section 109.117, Florida Statutes, and subsection (3) of said section is amended to read:

~~109.117 110.117~~ Paid holidays.—

(3) Each full-time employee is entitled to one personal holiday each year. Each part-time employee is entitled to a personal holiday each year which shall be calculated proportionately to the personal holiday allowed to a full-time employee. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. 109.205(2)(d) ~~110.205(2)(d)~~ are not eligible for this benefit.

Section 14. *Sections 110.118, 110.119, 110.120, 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes, are renumbered as sections 109.118, 109.119, 109.120, 109.121, 109.122, 109.1221, and 109.1225, Florida Statutes, respectively.*

Section 15. Section 110.1227, Florida Statutes, is renumbered as section 109.1227, Florida Statutes, and paragraph (c) of subsection (1) of said section is amended to read:

~~109.1227 110.1227~~ Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(c) This act in no way affects the Department of Management Services' authority pursuant to s. 109.123 ~~110.123~~.

Section 16. Section 110.123, Florida Statutes, is renumbered as section 109.123, Florida Statutes, and paragraph (g) of subsection (3) of said section is amended to read:

~~109.123 110.123~~ State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish uniform deductibles, copayments, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement

process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for

which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the department shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. ~~109.161~~ ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Section 17. Section 110.12312, Florida Statutes, is renumbered as section 109.12312, Florida Statutes, and amended to read:

~~109.12312~~ ~~110.12312~~ Open enrollment period for retirees.—On or after July 1, 1997, the Department of Management Services shall provide for an open enrollment period for retired state employees who want to obtain health insurance coverage under ss. ~~109.123~~ ~~110.123~~ and

109.12315 ~~110.12315~~. The options offered during the open enrollment period must provide the same health insurance coverage as the coverage provided to active employees under the same premium payment conditions in effect for covered retirees, including eligibility for health insurance subsidy payments under s. 112.363. A person who separates from employment subsequent to May 1, 1988, but whose date of retirement occurs on or after August 1, 1995, is eligible as of the first open enrollment period occurring after July 1, 1997, with an effective date of January 1, 1998, as long as the retiree's enrollment remains in effect.

Section 18. Section 110.12315, Florida Statutes, is renumbered as section 109.12315, Florida Statutes.

Section 19. Section 110.1232, Florida Statutes, is renumbered as section 109.1232, Florida Statutes, and amended to read:

109.1232 ~~110.1232~~ Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any provisions of law to the contrary, the Department of Management Services shall provide health insurance coverage under the state group insurance program for persons who retired before January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. 109.123 ~~110.123~~. The claims experience of this group shall be commingled with the claims experience of other members covered under s. 109.123 ~~110.123~~.

Section 20. Sections 110.1234, 110.1238, and 110.1239, Florida Statutes, are renumbered as sections 109.1234, 109.1238, and 109.1239, Florida Statutes, respectively.

Section 21. Section 110.124, Florida Statutes, is renumbered as section 109.124, Florida Statutes, and, effective January 1, 2002, subsections (2) and (4) of said section are amended to read:

109.124 ~~110.124~~ Termination or transfer of employees aged 65 or older.—

(2) Whenever any employee who has attained age 65 is terminated by an agency or department solely because the employee attains age 65, the employee may seek ~~apply for~~ relief from the action ~~through voluntary binding arbitration pursuant to s. 109.240 to the Public Employees Relations Commission pursuant to s. 447.208~~. The employee shall continue in employment pending the outcome of the ~~voluntary binding arbitration application~~. If the employee continues in employment following a ~~the~~ decision of the ~~voluntary binding arbitration panel commission~~, no further action shall be taken by the agency or department to terminate the employee for a period of 1 year following the date of the ~~panel's~~ decision of the ~~commission~~ unless approved by the ~~office commission~~ upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department. *An employee who does not request voluntary binding arbitration may apply for relief to the circuit court.*

(4) If mutually agreed to by the employee and the agency or department, an employee who has attained age 65 may be reduced to a part-time position for the purpose of phasing the employee out of employment into retirement. Such an arrangement may also be required by the ~~voluntary binding arbitration panel or the court Public Employees Relations Commission~~ as part of its decision in any appeal arising out of this section. A reduction to a part-time position may be accompanied by an appropriate reduction in pay.

Section 22. Section 110.1245, Florida Statutes, is renumbered as section 109.1245, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 110.1245, F.S., for present text.)

109.1245 Savings sharing; bonus payments; other awards.—

(1)(a) *The Department of Management Services shall set policy, develop procedures, and promote a savings sharing program for an individual or group of employees who propose procedures or ideas which are adopted and which result in eliminating or reducing state expenditures, if such proposals are placed in effect and can be implemented under current statutory authority.*

(b) *Each agency head shall recommend employees individually or by group to be awarded an amount of money, which amount shall be directly related to the cost savings realized. Each proposed award and amount of money must be approved by the Legislative Budgeting Commission.*

(c) *Each state agency, unless otherwise provided by law, may participate in the program. The Chief Justice shall have the authority to establish a savings sharing program for employees of the judicial branch within the parameters established in this section. The program shall apply to all employees within the Career Service System, the Selected Exempt Service, and comparable employees within the judicial branch.*

(d) *The department and the judicial branch shall submit annually to the President of the Senate and the Speaker of the House of Representatives information that outlines each agency's level of participation in the savings sharing program. The information shall include, but is not limited to:*

1. *The number of proposals made.*
2. *The number of awards made to employees or groups for adopted proposals.*
3. *The actual cost savings realized as a result of implementing employee or group proposals.*
4. *The number of employees or groups recognized for superior accomplishments.*

(2) *In June of each year, bonuses shall be paid to employees from funds authorized by the Legislature in an appropriation specifically for bonuses. Each agency shall develop a plan for awarding lump-sum bonuses, which plan shall be submitted to and approved by the Office of Policy and Budget in the Executive Office of the Governor no later than September 15 of each year. Such plan shall include, at a minimum:*

- (a) *A statement that bonuses shall be awarded from unused salary and expense dollars.*
- (b) *A statement that all bonuses are subject to appropriation by the Legislature.*
- (c) *Eligibility criteria as follows:*

1. *The employee must have been employed prior to July 1 of that fiscal year and have been continuously employed through the date of distribution.*

2. *The employee must not have been on leave without pay consecutively for more than 6 months during the fiscal year.*

3. *The employee must have had no disciplinary action during the period beginning July 1 through the date the bonus checks are distributed. Disciplinary actions include written reprimands, suspensions, dismissals, and involuntary or voluntary demotions that were associated with a disciplinary action.*

4. *The employee must have demonstrated a commitment to the agency mission by reducing the burden on those served, continually improving the way business is conducted, producing results in the form of increased outputs, and working to improve processes.*

5. *The employee must have demonstrated initiative in work and exceeded normal job expectations.*

6. *The employee must have modeled the way for others by displaying agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork.*

(d) *An evaluation process of the employee's performance and eligibility to be performed no less than quarterly.*

(e) Peer input to account for at least 40 percent of the bonus award determination.

(f) A division of the agency by work unit for purposes of peer input and bonus distribution.

(g) A limitation on bonus distributions equal to 35 percent of the agency's total authorized positions. This requirement may be waived by the Office of Policy and Budget in the Executive Office of the Governor upon a showing of exceptional circumstances.

(3) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring state employees whose service with the state has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of \$100 each plus applicable taxes.

(4) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who have achieved increments of 5 years of satisfactory service in the agency or to the state, in appreciation and recognition of such service. Such awards may not cost in excess of \$100 each plus applicable taxes.

(5) Each department head is authorized to incur expenditures not to exceed \$100 each plus applicable taxes for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the state has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.

Section 23. Section 110.1246, Florida Statutes, is repealed.

Section 24. Sections 110.125, 110.126, and 110.127, Florida Statutes, are renumbered as sections 109.125, 109.126, and 109.127, Florida Statutes, respectively.

Section 25. Section 110.129, Florida Statutes, is renumbered as section 109.129, Florida Statutes, and amended to read:

~~109.129~~ 109.129 Services to political subdivisions.—

(1) Upon request, the department may enter into a formal agreement ~~agreements~~ with any municipality or political subdivision of the state to furnish technical assistance to improve the system or methods of personnel administration of ~~that such~~ municipality or political subdivision. The department shall provide such assistance within the limitations of available staff, funds, and other resources. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

(2) Technical assistance ~~includes may include~~, but is ~~shall~~ not be limited to, *providing* technical advice, written reports, ~~or and~~ other information or materials, ~~which and~~ may cover such subjects as management and personnel systems, central administrative and support services, employee training, and employee productivity.

(3) Technical assistance rendered to municipalities or political subdivisions pursuant to this section may be on a nonreimbursable basis or may be partly or wholly reimbursable based upon the extent, nature, and duration of the requested assistance; the extent of resources required; and the degree to which the assistance would be of use to other municipalities or political subdivisions of the state.

Section 26. Section 110.131, Florida Statutes, is renumbered as section 109.131, Florida Statutes, and, effective July 1, 2001, subsections (2) and (3) and paragraph (c) of subsection (6) of said section are amended to read:

~~109.131~~ 109.131 Other-personal-services temporary employment.—

(2) An agency may employ any *qualified* individual in other-personal-services temporary employment for *100 hours in any calendar month* ~~1,040 hours within any 12-month period~~. An extension beyond a total of *100 hours in any calendar month period* ~~1,040 hours~~ within an agency for any individual or category of individuals requires the approval of the Governor's Office of Policy and Budget for good cause

~~agency head or a designee. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other personal services temporary employment. The time limitation established by this subsection does not apply to board members, consultants, seasonal employees, institutional clients employed as part of their rehabilitation, or bona fide, degree-seeking students in accredited secondary or postsecondary educational programs.~~

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship shall be used for short-term tasks. Such rules shall specify the employment categories, terms, conditions, rate of pay, and frequency of other-personal-services temporary employment and the duration for which such employment may last; ~~specify criteria for approving extensions beyond the time limitation provided in subsection (2);~~ and prescribe recordkeeping and reporting requirements for other-personal-services employment.

(6)

(c) Notwithstanding the provisions of this section, the agency head or his or her designee may extend the other-personal-services employment of a health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 466, chapter 468, chapter 483, chapter 486, or chapter 490 beyond 2,080 hours per year and may employ such practitioner on an hourly or other basis.

Section 27. Section 110.151, Florida Statutes, is renumbered as section 109.151, Florida Statutes.

Section 28. Section 110.152, Florida Statutes, is renumbered as section 109.152, Florida Statutes, and subsection (4) of said section is amended to read:

~~109.152~~ 109.152 Adoption benefits for state or water management district employees; parental leave.—

(4) Any employee of the state or of a water management district who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. ~~109.221~~ ~~110.221~~.

Section 29. Section 110.15201, Florida Statutes, is renumbered as section 109.15201, Florida Statutes.

Section 30. Section 110.1521, Florida Statutes, is renumbered as section 109.1521, Florida Statutes, and amended to read:

~~109.1521~~ 109.1521 Short title.—Sections ~~109.1521-109.1523~~ ~~110.1521-110.1523~~ may be cited as the "Family Support Personnel Policies Act."

Section 31. Section 110.1522, Florida Statutes, is renumbered as section 109.1522, Florida Statutes, and amended to read:

~~109.1522~~ 109.1522 Model rule establishing family support personnel policies.—The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. ~~109.1521-109.1523~~ ~~110.1521-110.1523~~, means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Section 32. Section 110.1523, Florida Statutes, is renumbered as section 109.1523, Florida Statutes, and amended to read:

~~109.1523~~ 109.1523 Adoption of model rule.—The model rule shall be effective 20 days after having been filed with the Department of State

and shall become part of the personnel rules of all applicable state agencies 150 days after the effective date of the rule to the extent that each agency does not, subsequent to such effective date, adopt a rule that sets forth the intent to specifically amend all or part of such model rule. Any employee or organization representing employees shall be considered a party for purposes of any rule required by ss. ~~109.1521-109.1523~~ ~~110.1521-110.1523~~, notwithstanding any provision of chapter 120 to the contrary.

Section 33. Section 110.161, Florida Statutes, is renumbered as section 109.161, Florida Statutes, and paragraph (a) of subsection (6) of said section is amended to read:

~~109.161~~ ~~110.161~~ State employees; pretax benefits program.—

(6) The Department of Management Services is authorized to administer the pretax benefits program established for all employees so that employees may receive benefits that are not includable in gross income under the Internal Revenue Code of 1986. The pretax benefits program:

(a) Shall allow employee contributions to premiums for the state group insurance program administered under s. ~~109.123~~ ~~110.123~~ to be paid on a pretax basis unless an employee elects not to participate.

Section 34. Section 110.171, Florida Statutes, is renumbered as section 109.171, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

~~109.171~~ ~~110.171~~ State employee telecommuting program.—

(2) The department shall:

(c) Identify state employees who are participating in a telecommuting program and their job classifications through the state personnel payroll information subsystem created under s. ~~109.116~~ ~~110.116~~.

Section 35. *Section 110.181, Florida Statutes, is renumbered as section 109.181, Florida Statutes.*

Section 36. Section 110.191, Florida Statutes, is renumbered as section 109.191, Florida Statutes, and amended to read:

~~109.191~~ ~~110.191~~ State employee leasing.—

(1) In situations where the Legislature has expressly authorized the state, an agency, or the judicial branch as defined in s. ~~109.203~~ ~~110.203~~ to lease employees, the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch may authorize any of the following actions related to such state employee leasing activities, provided that the direct cost of such actions is to be paid or reimbursed within 30 days after payment by the entity or person to whom the employees are leased:

(a) Create a separate budget entity from which leased employees shall be paid and transfer the positions authorized to be leased to that budget entity.

(b) Provide increases in the operating budget entity.

(c) Authorized lump-sum salary bonuses to leased employees; however, any lump-sum salary bonus above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(d) Approve increases in salary rate for positions which are leased; however, any salary rate above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(e) Waive any requirement for automatic salary increases which may be contained in the General Appropriations Act.

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of

the state employee lease agreement are comparable as determined by the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. ~~109.205(2)(k)2~~ ~~110.205(2)(k)2~~.

Section 37. *Section 110.201, Florida Statutes, is renumbered as section 109.201, Florida Statutes.*

Section 38. Section 110.203, Florida Statutes, is renumbered as section 109.203, Florida Statutes, and subsections (11), (18), (19), (22), and (23) of said section are amended to read:

~~109.203~~ ~~110.203~~ Definitions.—For the purpose of this part and the personnel affairs of the state:

(11) “Pay plan” means a formal description of the philosophy, methods, procedures, and salary ~~schedules~~ ~~schedule~~ for competitively compensating employees at market-based rates for work performed.

(18) “Promotion” means ~~the changing of~~ the classification of an employee to a class having a higher maximum salary; or ~~the changing of~~ the classification of an employee to a class having the same or a lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.

(19) “Demotion” means ~~the changing of~~ the classification of an employee to a class having a lower maximum salary; or ~~the changing of~~ the classification of an employee to a class having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.

(22) “Dismissal” means a disciplinary action taken by an agency against an employee resulting in termination of his or her employment for a violation of agency standards or for cause pursuant to s. ~~109.227~~ ~~110.227~~.

(23) “Suspension” means a disciplinary action taken by an agency against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay for violation of agency standards or for cause pursuant to s. ~~109.227~~ ~~110.227~~.

Section 39. Effective July 1, 2001, subsections (22), (23), and (24) of section 109.203, Florida Statutes, as renumbered and amended by this act, are amended, and subsections (28) and (29) are added to said section, to read:

~~109.203~~ Definitions.—For the purpose of this part and the personnel affairs of the state:

(22) “Dismissal” means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee resulting in termination of his or her employment ~~for a violation of agency standards or for cause pursuant to s. 109.227~~.

(23) “Suspension” means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay ~~for violation of agency standards or for cause pursuant to s. 109.227~~.

(24) “Layoff” means termination of employment due to abolishment of positions necessitated by a shortage of funds or work, or a material change in the duties or organization of an agency, *including the outsourcing or privatization of an activity or function previously performed by career service employees.*

(28) “Firefighter” means a firefighter certified under chapter 633.

(29) “Law enforcement or correctional officer” means a law enforcement officer, special agent, correctional officer, correctional probationer officer, or institutional security specialist required to be certified under chapter 943.

Section 40. Section 109.2035, Florida Statutes, is created to read:

109.2035 Civil service classification and compensation program.—

(1) *The Department of Management Services, in consultation with the Executive Office of the Governor and the Legislature, shall develop a civil service classification and compensation program. This program shall be developed for use by all state agencies and shall address all civil service classes.*

(2) *The program shall consist of the following:*

(a) *A position classification system using no more than 50 occupational groups and up to a six-class series structure for each occupation within an occupational group. Additional occupational groups may be established only by the Executive Office of the Governor after consultation with the Legislature.*

(b) *A pay plan which shall provide broad, market-based salary ranges for each occupational group.*

(3) *The following goals shall be considered in designing and implementing the program:*

(a) *The classification system must significantly reduce the need to reclassify positions due to work assignment and organizational changes by decreasing the number of classification changes required.*

(b) *The classification system must establish broad-based classes allowing flexibility in organizational structure and must reduce the levels of supervisory classes.*

(c) *The classification system and pay plan must emphasize pay administration and job performance evaluation by management rather than use of the classification system to award salary increases.*

(d) *The pay administration system must contain provisions to allow managers the flexibility to move employees through the pay ranges and provide for salary increase additives and lump-sum bonuses.*

(4) *The classification system shall be structured such that each confidential, managerial, and supervisory employee shall be included in the Selected Exempt Service, in accordance with part V of this chapter.*

(5) *The Department of Management Services shall submit the proposed design of the civil service classification and compensation program to the Executive Office of the Governor, the presiding officers of the Legislature, and the appropriate legislative fiscal and substantive standing committees on or before December 1, 2001.*

(6) *The department shall establish, by rule, guidelines with respect to, and shall delegate, where appropriate, to the employing agencies the authority to administer, the following:*

(a) *Shift differentials.*

(b) *On-call fees.*

(c) *Hazardous-duty pay.*

(d) *Advanced appointment rates.*

(e) *Salary increase and decrease corrections.*

(f) *Lead worker pay.*

(g) *Temporary special duties pay.*

(h) *Trainer additive pay.*

(i) *Competitive area differentials.*

(j) *Coordinator pay.*

(k) *Critical market pay.*

The employing agency must use such pay additives as are appropriate within the guidelines established by the department and shall advise the department in writing of the plan for implementing such pay additives prior to the implementation date. Any action by an employing agency to implement temporary special duties pay, competitive area differentials, or critical market pay may be implemented only after the department has

reviewed and recommended such action; however, an employing agency may use temporary special duties pay for up to 3 months without prior review by the department. The department shall annually provide a summary report of the pay additives implemented pursuant to this section.

Section 41. Section 110.205, Florida Statutes, is renumbered as section 109.205, Florida Statutes, paragraphs (h) and (u) of subsection (2) and subsection (3) of said section are amended and subsections (7) and (8) are added to said section, and, effective July 1, 2001, paragraphs (v) and (w) are added to subsection (2) of said section, to read:

~~109.205~~ ~~110.205~~ Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(h) All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. 109.131 ~~110.131~~.

(u) Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. 109.191 ~~110.191~~.

(v) *Managerial employees, as defined in s. 447.203(4), confidential employees, as defined in s. 447.203(5), and supervisory employees who spend the majority of their time communicating with, motivating, training, and evaluating employees, and planning and directing employees' work, and who have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline subordinate employees or effectively recommend such action, including all employees serving as supervisors, administrators, and directors, except employees also designated as special risk or special risk administrative support and except administrative law judges and hearing officers. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.*

(w) *Any employee exempted and moved to the Selected Exempt Service by way of a collective bargaining agreement.*

(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—Employees of the Department of Law Enforcement shall be subject to the provisions of s. 109.227 ~~110.227~~, except in matters relating to transfer.

(7) *If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service, all of the employee's unused annual leave and unused sick leave shall carry forward with the employee.*

(8) *If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service on July 1, 2001, all of the employee's unused compensatory leave shall carry forward with the employee.*

Section 42. Sections 110.207, 110.209, and 110.21, Florida Statutes, are renumbered as sections 109.207, 109.209, and 109.21, Florida Statutes, respectively.

Section 43. Effective June 30, 2002, sections 109.207 and 109.209, Florida Statutes, are repealed.

Section 44. Section 110.211, Florida Statutes, is renumbered as section 109.211, Florida Statutes, and amended to read:

~~109.211~~ ~~110.211~~ Recruitment.—

(1) Recruiting shall be planned and carried out in a manner that assures open competition based upon current and projected employing

agency needs, taking into consideration the number and types of positions to be filled and the labor market conditions, with special emphasis placed on recruiting efforts to attract minorities, women, or other groups that are underrepresented in the workforce of the employing agency.

(2) Recruiting efforts to fill current or projected vacancies shall be carried out in the sound discretion of the agency head ~~the responsibility of the employing agency.~~

(3) ~~Recruiting shall provide efficiency in advertising and may be assisted by a contracted vendor responsible for maintenance of the personnel data. The department shall provide for executive level recruitment and a recruitment enhancement program designed to encourage individuals to seek employment with state government and to promote better public understanding of the state as an employer.~~

(4) ~~An application for a publicly announced vacancy must be made directly to the employing agency.~~

(4)(5) All recruitment literature ~~printed after July 1, 1979~~, involving state position vacancies shall contain the phrase "An Equal Opportunity Employer/Affirmative Action Employer."

(6) ~~The department shall develop model recruitment rules which may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt recruitment rules that are inconsistent with the model rules must consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 45. Section 110.213, Florida Statutes, is renumbered as section 109.213, Florida Statutes, and amended to read:

~~109.213 110.213~~ Selection.—

(1) ~~The department shall have the responsibility for determining guidelines for selection procedures to be utilized by the employing agencies.~~

(2) ~~Any selection procedure utilized in state employment shall be designed to provide maximum validity, reliability, and objectivity; shall be based on adequate job analysis to ensure job relatedness; and shall measure the relative ability, knowledge, and skill needed for entry to a job.~~

(1)(3) Selection for appointment from among the most qualified candidates available ~~eligibles~~ shall be the sole responsibility of the employing agency. *Effective July 1, 2001, all new employees must successfully complete at least a 1-year probationary period before attainment of permanent status.*

(2) *Selection shall reflect efficiency and simplicity in hiring procedures. The agency head or his or her designee shall be required to document the qualifications of the selected candidate to ensure that the candidate meets the minimum qualifications and possesses the requisite knowledge, skills, and abilities for the position. No other documentation or justification shall be required prior to selecting a candidate for a position.*

(4) ~~The department shall develop model selection rules that may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt selection rules that are inconsistent with the model rules shall consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 46. Sections 110.2135, 110.215, and 110.217, Florida Statutes, are renumbered as sections 109.2135, 109.215, and 109.217, Florida Statutes, respectively.

Section 47. Section 110.219, Florida Statutes, is renumbered as section 109.219, Florida Statutes, and paragraph (c) of subsection (5) of

said section is amended, and, effective July 1, 2001, subsections (6) and (7) are added to said section, to read:

~~109.219 110.219~~ Attendance and leave; general policies.—

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(c) Holidays as provided in s. 109.117 ~~110.117~~.

(6) *The leave benefits provided to Senior Management Service employees shall not exceed those provided to employees in the Selected Exempt Service.*

(7) *Each December, a career service employee shall be entitled, subject to available funds, to a payout of up to 24 hours of unused annual leave as follows:*

(a) *An employee must have an annual leave balance of no less than 24 hours, after the payout, in order to qualify for this benefit.*

(b) *No employee shall receive a payout of greater than 240 hours over the course of the employee's career with the state, including any leave received at the time of separation.*

Section 48. Section 110.221, Florida Statutes, is renumbered as section 109.221, Florida Statutes.

Section 49. Section 110.224, Florida Statutes, is renumbered as section 109.224, Florida Statutes, and amended to read:

~~109.224 110.224~~ *Public employee Review*—and performance evaluation planning system.—A ~~public employee review~~ and performance evaluation planning system shall be established as a basis to evaluate and improve for improving the performance of the state's workforce, to provide documentation in support of recommendations for salary increases, promotions, demotions, reassignments, or dismissals; to inform employees of strong and weak points in the employee's performance, to identify improvements expected, and current and future training needs, and to award lump-sum bonuses in accordance with s. 109.1245(2); and to assist in determining the order of layoff and reemployment.

(1) Upon original appointment, promotion, demotion, or reassignment, a job description of the position assigned ~~each career service employee~~ must be made available to the career service employee given a statement of the work expectations and performance standards applicable to the position. The job description may be made available in an electronic format. ~~statement may be included in the position description or in a separate document. An employee will not be required to meet work expectations or performance standards that have not been furnished in writing to the employee.~~

(2) Each employee must have a ~~employee's~~ performance evaluation ~~must be reviewed~~ at least annually, and the employee must receive a copy ~~an oral and written assessment~~ of his or her performance evaluation. The performance evaluation ~~assessment~~ may include a plan of corrective action for improvement of the employee's performance based on the work expectations or performance standards applicable to the position as determined by the agency head.

(3) The department may adopt rules to administer the *public employee review* and performance evaluation planning system which establish procedures for performance evaluation, ~~procedures to be followed in case of failure to meet performance standards~~, review periods, and forms.

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and subsection (2) of said section is amended, and, effective July 1, 2001, subsections (1) and (3) and paragraph (a) of subsection (5) of said section are amended, present subsections (6) and (7) are amended and renumbered, and a new subsection (8) is added to said section, and, effective January 1, 2002,

subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

~~109.227~~ 109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(1) Any employee *other than a law enforcement or correctional officer or a firefighter* who has permanent status in the career service may only be suspended or dismissed for *reasonable* cause. *Reasonable* cause shall be a determination made within the sound discretion of the agency head and includes ~~include~~, but is not be limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, ~~willful~~ violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime ~~involving moral turpitude~~. *Suspension or dismissal based upon patronage, discrimination, or arbitrariness or for any conduct that is otherwise protected under state or federal law shall constitute an abuse of sound discretion. A law enforcement or correctional officer or a firefighter who has permanent status in the career service may only be suspended or dismissed for just cause. The* ~~Each~~ agency head shall ensure that all employees of the agency *have reasonable access to the agency's personnel manual* ~~are completely familiar with the agency's established procedures on disciplinary actions and grievances.~~

(2) The department shall establish rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees in the career service. *Except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff procedures shall not include any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but either vacant or already occupied by an employee of less seniority, and taking that position, commonly referred to as "bumping."* Such rules shall be approved by the Administration Commission prior to their adoption by the department. *This subsection does not prohibit collective bargaining units from seeking to incorporate "bumping" in their collective bargaining agreements.*

(3)(a) *With regard to law enforcement or correctional officers or firefighters, when a layoff becomes necessary, such layoff shall be conducted within the competitive area identified by the agency head and approved by the Department of Management Services. Such competitive area shall be established taking into consideration the similarity of work; the organizational unit, which may be by agency, department, division, bureau, or other organizational unit; and the commuting area for the work affected.*

(b) Layoff procedures shall be developed to establish the relative merit and fitness of employees and shall include a formula for uniform application among *potentially adversely affected employees, or, with respect to law enforcement or correctional officers or firefighters, among all employees in the competitive area, taking into consideration the type of appointment, the length of service, and the evaluations of the employee's performance within the last 5 years of employment.*

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002, such actions shall be appealable to the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.~~

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. *Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable*

grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, ~~an the affected law enforcement or correctional officer or a firefighter~~ ~~employee~~ shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission.

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 days' prior notice, provided that written or oral notice of such action, evidence of the reasons therefor, and an opportunity to rebut the charges are furnished to the employee prior to such dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Agency compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated. *As of January 1, 2002, any employee who is suspended or dismissed pursuant to the provisions of this paragraph shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.~~

(6) *For any alleged adverse agency action against an employee, other than a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the adversely affected employee bears the burden of proof to establish by preponderance of the evidence that the agency head abused his or her discretion in suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee and that no reasonable cause existed for the alleged adverse action taken by the agency, or that the alleged adverse action was in violation of s. 109.233. For any alleged adverse agency action against a law enforcement or correctional officer or a firefighter occurring on or after July 1, 2001, the agency must prove just cause for suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee.*

(7)(6) A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee *believes* ~~thinks or feels~~ that any condition affecting the employee is unjust, inequitable, or a hinderance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless the *employee alleges* ~~it is alleged~~ that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(8)(7) The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to

such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, an affected law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. ~~As of January 1, 2002, an employee who is suspended or dismissed shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission. Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.~~

Section 52. Section 110.233, Florida Statutes, is renumbered as section 109.233, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended to read:

~~109.233 110.233~~ Political activities and unlawful acts prohibited.—

(4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:

(a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department of Management Services as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department of Management Services shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.

Section 53. Section 110.235, Florida Statutes, is renumbered as section 109.235, Florida Statutes, and subsection (1) of said section is amended to read:

~~109.235 110.235~~ Training.—

(1) ~~It is the intent of the Legislature that~~ State agencies shall implement training programs that encompass modern management principles, and that provide the framework to develop human resources through empowerment, training, and rewards for productivity enhancement; to continuously improve the quality of services; and to satisfy the expectations of the public.

Section 54. Section 109.237, Florida Statutes, is created to read:

109.237 Office of Employee Relations.—

(1) *There is created within the Department of Management Services the Office of Employee Relations, hereinafter referred to as the "office." The Governor shall appoint an executive director of the office. The executive director shall serve at the pleasure of and report to the Governor. The executive director must be a member in good standing of The Florida Bar, have a minimum of 5 years of legal experience, and be knowledgeable regarding and have a background in the laws regarding state employees, the Career Service System, employee bargaining units, and collective bargaining. The executive director shall serve on a full-time basis, and shall personally, or through a representative of the office, carry out the purposes and functions of the office in accordance with state and federal law. The executive director shall be responsible for the administrative functions of the office. The executive director shall make all planning, personnel, and budgeting decisions with regard to the*

office. The executive director shall be solely responsible for administering the voluntary binding arbitration program provided for by s. 109.240. The executive director, or the executive director's designee, shall be responsible for establishing and implementing a training and education program for all the office's employees with regard to their duties and responsibilities, procedural requirements, and applicable law, as appropriate for each employee's position.

(2) *The executive director shall employ a general counsel and an administrative assistant to meet immediate staffing needs. The executive director, general counsel, and administrative assistant shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal monthly installments. The executive director, general counsel, and administrative assistant shall be reimbursed for necessary travel expenses, as provided in s. 112.061. Effective December 1, 2001, the executive director shall have the authority to employ such personnel as is necessary to carry out the duties and responsibilities of the office. These personnel shall be paid annual salaries fixed by law, in equal monthly installments, and such personnel shall be reimbursed for necessary travel expenses as provided in s. 112.061.*

(3) *The office, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction of the Department of Management Services. The office shall be a separate budget entity within the department's legislative budget request.*

(4) *The Department of Management Services shall provide the necessary office space, furniture, equipment, and supplies necessary for the startup of the office. The department shall further provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The executive director may request the assistance of the Inspector General of the Department of Management Services in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the office.*

(5) *The office shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures by the office shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the executive director.*

(6) *The office may charge for copies of records and documents as provided for in s. 119.07.*

(7) *The office shall maintain and keep open during reasonable business hours an office at which its public records shall be kept. The office may conduct hearings at any place within the state.*

(8) *The office shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Office of Employee Relations—Seal" and which shall be judicially noticed.*

(9) *The office is expressly authorized to provide by rule for, and to destroy, obsolete records of the office.*

(10) *Any hearing held or oral argument heard by the office pursuant to chapter 120 or this chapter shall be open to the public.*

(11) *Any hearing held by the office under this part shall be conducted in accordance with the provisions of ss. 120.569 and 120.57 by an employee of the office, or a person designated by the executive director, who is a member in good standing of The Florida Bar.*

Section 55. (1) Except as otherwise provided, effective January 1, 2002, section 109.240, Florida Statutes, is created to read:

109.240 Voluntary binding arbitration.—

(1) *Upon receipt of notice of an adverse agency action, any permanent career service employee may request voluntary binding arbitration*

administered by the Office of Employee Relations. As used in this section, "adverse agency action" means the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee. Any eligible employee choosing to participate in voluntary binding arbitration must file a written request for arbitration with the office no later than 14 days after the receipt of notice of the adverse agency action.

(2) The arbitration request must be submitted on a form prescribed by the office by rule. The form must be signed by the employee and must include stipulations that:

(a) The employee is voluntarily participating in binding arbitration pursuant to this section.

(b) The arbitration order is final and may not be set aside except for an error in law that is apparent on the record.

(c) The employee will faithfully abide by the arbitration order unless otherwise determined by a court of competent jurisdiction.

(3) Upon receipt of the arbitration request, the office shall provide written notice to the agency against which a request is made regarding the employee request for binding arbitration. The agency must participate in the requested binding arbitration. Binding arbitration shall not be conducted pursuant to this section unless the employee requests it.

(4)(a) The employee bears the burden of establishing by a preponderance of the evidence that the agency action complained of was adverse, that the agency head abused his or her discretion in taking the adverse agency action, and that no reasonable cause existed for the adverse agency action. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the employer must prove just cause for the adverse agency action.

(5)(a) The voluntary binding arbitration shall be heard and determined by an employee panel that consists of three randomly selected career service employees chosen by the office in a manner to ensure a balanced representation of employees from each pay classification. At least one of the employees selected to serve on an employee panel must be a member of the same pay classification as the employee requesting binding arbitration. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the voluntary binding arbitration shall be heard and determined by an employee panel that consists of three career service employees selected as follows:

1. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by that employee.

2. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by the employer.

3. One panel member jointly selected by the other two panel members. If the two panel members do not agree on the jointly selected panel member, within 10 working days after the appeal is submitted, the parties shall jointly request the Federal Mediation and Conciliation Service to furnish a panel of seven names from which each party shall have the option, within 5 days of receipt, of striking three names in alternating fashion. The seventh or remaining name shall serve as the third panel member. The parties shall jointly notify the panel member of his or her selection. Either party may object to all names on the list, provided the objection is made prior to the commencement of the striking process. If this occurs, the objecting party may request the Federal Mediation and Conciliation Service to furnish another list of names. No more than two lists may be requested.

(c) The employee panel shall receive procedural direction and legal advice from the arbitrator appointed by the office.

(d) No employee currently employed or employed within the preceding 6 months by the agency participating in the binding arbitration shall be selected for an employee panel. Employees selected to serve on an employee panel shall hear all evidence submitted by the parties in arbitration and their decision shall be governed by the statutory burden of proof. The office shall reimburse agencies for the daily tasks of each agency employee that serves on an employee panel.

(e) The employee panel shall make all findings of fact and determination of claims. The arbitrator shall draft the arbitration decision for submission to the members of the employee panel for their approval and signatures. Unless otherwise provided in the decision, the decision shall become final 10 days after its execution by the panel.

(6) Any party may be represented by counsel or another appointed representative. The arbitrator and employee panel must complete all arbitration of the employee's claims raised in the request within 60 days after receipt of the claim. The arbitrator may extend the 60-day period upon request of the parties or at the request of one party, after a hearing on that party's request for extension.

(7)(a) The arbitrator selected by the office shall not be an employee within the Career Service System, the Select Management Service, or the Selected Exempt Service. Each selected arbitrator must, at a minimum, meet the following requirements:

1. Completion of a Florida Supreme Court certified circuit or county arbitration program, or other arbitration program approved by the office, in addition to a minimum of 1 day of training in the application of this chapter and chapter 447 and any rules adopted thereunder.

2. Compliance with the Code of Ethics for Arbitrators in Employment Disputes published by the American Arbitration Association and the American Bar Association in 1977, as amended.

3. Membership in good standing in The Florida Bar.

(b) The arbitrator shall have authority to commence and adjourn the arbitration hearing. The arbitrator shall not have authority to hold any person in contempt or to in any way impose sanctions against any person. The arbitrator shall provide assistance to the employee panel on questions of law.

(c) The arbitrator shall schedule all arbitration proceedings, including the date, time, and location of such proceedings and provide notice of the arbitration proceeding to the parties at least 5 days in advance of the hearing date, unless otherwise agreed to by the parties. The arbitrator has the discretion to grant a continuance for reasonable cause.

(d) The arbitrator may set a preliminary conference and require all parties to file a statement of position prior to the conference. The statement of position may include stipulations of the parties to uncontested facts and applicable law, citations to all governing statutory or regulatory laws that control the controversy, a list of issues of fact and law that are in dispute, any proposals designed to expedite the arbitration process, a list of documents exchanged by the parties and a schedule for the delivery of any additional relevant documents, identification of witnesses expected to be called during the arbitration proceeding accompanied by a short summary of their expected testimony, and any other matters specified by the arbitrator.

(8) The duties of the office in administering voluntary binding arbitration pursuant to this section include, but are not limited to, the following:

(a) Supporting the arbitration process, including the filing and noticing of all arbitration requests, objections, and other party communications; the selection of the arbitrator; and the design and operation of the employee panel pool.

(b) Providing for the selection of the employee panel and arbitrator, which includes:

1. Providing selection notice to all parties, the arbitrator, and the employee panel participants.

2. Securing a signed disclosure statement from each appointed arbitrator and selected employee describing any circumstances likely to affect impartiality, including any bias or any financial or personal interest with either party or any present or past relationship with the employee seeking binding arbitration, and making these disclosure statements available to the parties. The duty to disclose shall be a continuing obligation throughout the arbitration process.

3. Filling vacancies.

4. Compensating arbitrators, provided that an arbitrator's fees and expenses shall not exceed \$500 per day for case preparation, prehearing conferences, hearings, and preparation of the arbitration order.

5. Making an electronic recording of each arbitration proceeding, including preconference hearings, even when a party chooses to make a stenographic recording of the arbitration proceeding at that party's expense.

(c) Publishing the final arbitration order submitted to the office by both parties and the arbitrator.

(9) The office shall maintain records of each dispute submitted to voluntary binding arbitration, including the recordings of the arbitration hearings. All records maintained by the office under this section shall be public records and shall be available for inspection upon reasonable notice.

(10) The arbitration proceedings shall be governed by the following procedural requirements:

(a) A party may object to the arbitrator or any employee on the panel based on the arbitrator's or employee's past or present, direct or indirect, relationship with either party or either party's attorney, whether that relationship was or is financial, professional, or social. The arbitrator shall consider any objection to a panel employee, determine its validity, and notify the parties of his or her determination. If the objection is determined valid, the office shall assign another employee from the employee panel pool. The office shall consider any objection to the arbitrator, determine its validity, and notify the parties of its determination. If the objection is determined valid, the office shall appoint another arbitrator.

(b) The arbitrator has the power to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, excluding contempt. Fees for attendance of witnesses shall be the same as that provided in civil actions in circuit courts of this state.

(c) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths.

(d) The arbitrator may continue a hearing on his or her own motion or upon the request of the party for good cause shown. A request for continuance by the employee constitutes a waiver of the 60-day time period for completion of all arbitration proceedings authorized under this section.

(e) The employee panel shall render its decision within 10 days after the closing of the hearing. The decision shall be in writing on a form prescribed or adopted by the office. The arbitrator shall send a copy of the decision to the parties by registered mail.

(f) Unless otherwise provided, the arbitration decision rendered by the employee panel and any appeals thereof are exempt from the provisions of chapter 120.

(11)(a) The office shall establish rules of procedure governing the arbitration process. Such rules shall include, but are not limited to:

1. The exchange and filing of information among the parties.

2. Discovery.

3. Offering evidence.

4. Calling and excluding witnesses.

5. Submitting evidence by affidavit.

6. Attendance of the parties and witnesses.

7. The order of proceedings.

(b) The office may adopt additional rules necessary to implement this section.

(12) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business, or the county where the arbitration hearing was held, for an order confirming, vacating, or modifying the arbitration decision. Such application must be filed within 30 days after the later of the moving party's receipt of the written decision or the date the decision becomes final. Upon filing such application, the moving party shall mail a copy to the office and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the office. A review of such application to circuit court shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrator to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the United States Constitution or the Florida Constitution.

If the arbitrator and employee panel fail to state findings or reasons for the stated decision, or the findings and reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the decision.

(13) The office, the arbitrator, and the employee panel shall have absolute immunity from liability arising from the performance of their duties while acting within the scope of their appointed function in any arbitration conducted under this section.

(2) For purposes of rulemaking by the Office of Employee Relations, subsection (11) of s. 109.240, Florida Statutes, as created by this section, shall take effect July 1, 2001.

Section 56. Section 110.401, Florida Statutes, is renumbered as section 109.401, Florida Statutes, and amended to read:

~~109.401~~ ~~110.401~~ Declaration of policy.—~~It is the intent of This part creates to create~~ a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior Management Service employees. Accordingly ~~To this end,~~ training and management-development programs are regarded as a major administrative function within agencies.

Section 57. Section 110.402, Florida Statutes, is renumbered as section 109.402, Florida Statutes, and subsection (2) of said section is amended to read:

~~109.402~~ ~~110.402~~ Senior Management Service; creation, coverage.—

(2) The Senior Management Service shall be limited to those positions which are exempt from the Career Service System by s. 109.205(2) ~~110.205(2)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Senior Management Service.

Section 58. Section 110.403, Florida Statutes, is renumbered as section 109.403, Florida Statutes, and amended to read:

~~109.403~~ ~~110.403~~ Powers and duties of the Department of Management Services.—

(1) ~~In order to implement the purposes of this part,~~ The department of ~~Management Services~~, after approval by the Administration Commission, shall adopt and amend rules ~~that provide~~ ~~providing~~ for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

(e) A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

(f) Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the department of ~~Management Services~~ to determine agency compliance with the provisions of this part and ~~with the department's rules of the Department of Management Services.~~

(g) Other procedures relating to personnel administration to carry out the purposes of this part.

(h) A program of affirmative and positive action that will ensure full utilization of ~~the rich diversity of Florida's human resources~~ ~~women and minorities~~ in Senior Management Service positions.

(2) The powers, duties, and functions of the department of ~~Management Services~~ shall include responsibility for the policy administration of the Senior Management Service.

(3) The department of ~~Management Services~~ shall have the following additional responsibilities:

(a) To establish and administer a professional development program which shall provide for the systematic development of managerial, executive, or administrative skills.

(b) To promote public understanding of the purposes, policies, and programs of the Senior Management Service.

(c) To approve contracts of employing agencies with persons engaged in the business of conducting multistate executive searches to identify qualified and available applicants for Senior Management Service positions for which the department of ~~Management Services~~ sets salaries in accordance with the classification and pay plan. Such contracts may be entered by the agency head only after completion of an unsuccessful in-house search. The department of ~~Management Services~~ shall establish, by rule, the minimum qualifications for persons desiring to conduct executive searches, including a requirement for the use of contingency contracts. ~~These~~ ~~Such~~ rules shall ensure that such persons possess the requisite capacities to perform effectively at competitive

industry prices. ~~These~~ ~~The Department of Management Services shall~~ ~~make the rules~~ ~~shall also~~ ~~required pursuant to this paragraph in such~~ ~~a manner as to~~ comply with state and federal laws and regulations governing equal opportunity employment.

(4) All policies and procedures adopted by the department of ~~Management Services~~ regarding the Senior Management Service shall comply with all federal regulations necessary to permit the state agencies to be eligible to receive federal funds.

(5) The department of ~~Management Services~~ shall adopt, by rule, procedures for Senior Management Service employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with any individual, partnership, association, corporation, utility, or other organization, whether public or private, doing business with or subject to regulation by the agency.

Section 59. Effective July 1, 2001, paragraph (a) of subsection (1) of section 109.403, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.403 Powers and duties of the Department of Management Services.—

(1) The department, after approval by the Administration Commission, shall adopt and amend rules which provide for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed ~~1.5~~ ~~0.5~~ percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

Section 60. ~~Section 110.405, Florida Statutes, is renumbered as section 109.405, Florida Statutes.~~

Section 61. Section 110.406, Florida Statutes, is renumbered as section 109.406, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of said section are amended to read:

~~109.406~~ ~~110.406~~ Senior Management Service; data collection.—

(2) The data required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. ~~109.403~~ ~~110.403~~.

(3) To assist in the preparation of the data required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. ~~109.405~~ ~~110.405~~.

Section 62. ~~Section 110.501, Florida Statutes, is renumbered as section 109.501, Florida Statutes.~~

Section 63. Section 110.502, Florida Statutes, is renumbered as section 109.502, Florida Statutes, and subsections (2) and (3) of said section are amended to read:

~~109.502~~ ~~110.502~~ Scope of act; status of volunteers.—

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. ~~109.504~~ ~~110.504~~.

However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. 109.504 ~~110.504~~, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 64. Sections 110.503 and 110.504, Florida Statutes, are renumbered as sections 109.503 and 109.504, Florida Statutes, respectively.

Section 65. Section 110.601, Florida Statutes, is renumbered as section 109.601, Florida Statutes, and amended to read:

~~109.601 110.601~~ Declaration of policy.—~~It is the purpose of This part creates to create~~ a system of personnel management ~~the purpose of which is to deliver which ensures to the state the delivery of~~ high-quality performance by those employees in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

Section 66. Section 110.602, Florida Statutes, is renumbered as section 109.602, Florida Statutes, and amended to read:

~~109.602 110.602~~ Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. 109.205(2) and (5) ~~110.205(2) and (5)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.

Section 67. Effective July 1, 2001, section 109.602, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.602 Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. 109.205(2) and (5) and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. ~~In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established~~

~~in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.~~

Section 68. Sections 110.603 and 110.604, Florida Statutes, are renumbered as sections 109.603 and 109.604, Florida Statutes, respectively.

Section 69. Section 110.605, Florida Statutes, is renumbered as section 109.605, Florida Statutes, and subsection (1) of said section is amended to read:

109.605 ~~110.605~~ Powers and duties; personnel rules, records, reports, and performance appraisal.—

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

~~(b) It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.~~

~~(b)(e)~~ The department shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement. Each employing agency shall develop a performance appraisal system for all other employees and positions in the Selected Exempt System. Such agency system shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

~~(c)(d)~~ The employing agency must maintain, on a current basis, all records and reports required by applicable rules. The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.

~~(d)(e)~~ The department shall develop a program of affirmative and positive actions that will ensure full utilization of the rich diversity of Florida's human resources ~~women and minorities~~ in Selected Exempt Service positions.

Section 70. Section 110.606, Florida Statutes, is renumbered as section 109.606, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.606 ~~110.606~~ Selected Exempt Service; data collection.—

(2) The data required by this section shall include:

(c) In addition, as needed, ~~the data shall include:~~

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

Section 71. (1) Sections 109.105 through 109.191, Florida Statutes, are designated as part I of chapter 109, Florida Statutes, to be entitled "General State Employment Provisions."

(2) Sections 109.201 through 109.240, Florida Statutes, are designated as part II of chapter 109, Florida Statutes, to be entitled "Career Service System."

(3) Sections 109.401 through 109.406, Florida Statutes, are designated as part III of chapter 109, Florida Statutes, to be entitled "Senior Management Service System."

(4) Sections 109.501 through 109.504, Florida Statutes, are designated as part IV of chapter 109, Florida Statutes, to be entitled "Volunteers."

(5) Sections 109.601 through 109.606, Florida Statutes, are designated as part V of chapter 109, Florida Statutes, to be entitled "Selected Exempt Service System."

Section 72. Paragraph (c) of subsection (2) and paragraph (d) of subsection (3) of section 20.171, Florida Statutes, are amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter 109 ~~110~~, may be created without specific legislative authority.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4).

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Section 73. Subsection (3) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(3) Unless otherwise provided by law, the Secretary of Community Affairs shall appoint the directors or executive directors of any commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. 109.205 ~~110.205~~. The appointment or termination by the secretary will be done with the advice and consent of the commission or council; and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

Section 74. Subsection (6) of section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(6) Notwithstanding the provisions of s. 109.123 ~~110.123~~, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 75. Paragraph (d) of subsection (1), paragraph (h) of subsection (2), paragraphs (d), (f), (h), and (i) of subsection (3), paragraphs (c) and (d) of subsection (4), and subsection (5) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1)

(d) Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter 109 ~~110~~ and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter 109 ~~110~~, the Governor shall approve said salary.

(2)

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 109 110 and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(3)

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;

b. Performing statewide activities which it is more cost-effective to perform in a central location;

c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and

d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Highway Operations;

e. The Office of Right-of-Way;

f. The Office of Toll Operations;

g. The Office of Information Systems; and

h. The Office of Motor Carrier Compliance.

3. Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter 109 110. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

4. During the construction of a major transportation improvement project or as determined by the district secretary, the department may provide assistance to a business entity significantly impacted by the project if the entity is a for-profit entity that has been in business for 3 years prior to the beginning of construction and has direct or shared access to the transportation project being constructed. The assistance program shall be in the form of additional guarantees to assist the impacted business entity in receiving loans pursuant to Title 13 C.F.R. part 120. However, in no instance shall the combined guarantees be greater than 90 percent of the loan. The department shall adopt rules to implement this subparagraph.

(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter 109 110.

2. The functions of the Office of Management and Budget include, but are not limited to:

a. Preparation of the work program;

b. Preparation of the departmental budget; and

c. Coordination of related policies and procedures.

3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter 109 110. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.

2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:

a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.

b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a

statement to the Transportation Commission and the Legislature the reasons for his or her actions.

(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

- a. The several appropriations available for the use of the department;
 - b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;
 - c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;
 - d. The amount or portion of each such apportionment against general contractual and other liabilities then created;
 - e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;
 - f. The expense and operating costs of the various activities of the department;
 - g. The receipts accruing to the department and the distribution thereof;
 - h. The assets, investments, and liabilities of the department; and
 - i. The cash requirements of the department for a 36-month period.
4. The comptroller shall maintain a separate account for each fund administered by the department.
5. The comptroller shall perform such other related duties as designated by the department.

(4)

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 109 ~~110~~.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter 109 ~~110~~.

(5) Notwithstanding the provisions of s. 109.205 ~~110.205~~, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 109.205(2)(i) ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. 109.205(2)(l) ~~110.205(2)(l)~~.

Section 76. Subsection (2) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

- 1. Office of Chief of Staff,
- 2. Office of General Counsel,
- 3. Office of Inspector General,
- 4. Office of External Affairs,
- 5. Office of Legislative and Government Affairs, and
- 6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~.

Section 77. Paragraph (b) of subsection (3) and paragraph (e) of subsection (6) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service.

(6) FLORIDA CORRECTIONS COMMISSION.—

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction,

supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 109 ~~110~~ and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

Section 78. Paragraph (d) of subsection (20) of section 24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department shall:

(20) Employ division directors and other staff as may be necessary to carry out the provisions of this act; however:

(d) The department shall establish and maintain a personnel program for its employees, including a personnel classification and pay plan which may provide any or all of the benefits provided in the Senior Management Service or Selected Exempt Service. Each officer or employee of the department shall be a member of the Florida Retirement System. The retirement class of each officer or employee shall be the same as other persons performing comparable functions for other agencies. Employees of the department shall serve at the pleasure of the secretary and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the secretary. Such personnel actions are exempt from the provisions of chapter 120. All employees of the department are exempt from the Career Service System provided in chapter 109 ~~110~~ and, notwithstanding the provisions of s. 109.205(5) ~~110.205(5)~~, are not included in either the Senior Management Service or the Selected Exempt Service. However, all employees of the department are subject to all standards of conduct adopted by rule for career service and senior management employees pursuant to chapter 109 ~~110~~. In the event of a conflict between standards of conduct applicable to employees of the Department of the Lottery the more restrictive standard shall apply. Interpretations as to the more restrictive standard may be provided by the Commission on Ethics upon request of an advisory opinion pursuant to s. 112.322(3)(a), for purposes of this subsection the opinion shall be considered final action.

Section 79. Paragraph (d) of subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(d) Section 109.131 ~~110.131~~, relating to other personal services.

Section 80. Subsection (1) of section 68.087, Florida Statutes, is amended to read:

68.087 Exemptions to civil actions.—

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term “senior executive branch official” means any person employed in the executive branch of

government holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~.

Section 81. Subsection (3) of section 104.31, Florida Statutes, is amended to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(3) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee’s off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 109.233 ~~110.233~~.

Section 82. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, “employee of the department” means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 83. Subsection (4) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter 109 ~~110~~. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter 109 ~~110~~, except that the commission shall have complete authority for setting the executive director’s salary. Attorneys employed by the commission shall be subject to part V of chapter 109 ~~110~~.

Section 84. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 109 ~~110~~ and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109 ~~110~~, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 85. Section 112.0805, Florida Statutes, is amended to read:

112.0805 Employer notice of insurance eligibility to employees who retire.—Any employer who provides insurance coverage under s. ~~109.123 110.123~~ or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. ~~109.123 110.123~~ and 112.0801, or the insurance coverage as provided by this law.

Section 86. Paragraph (a) of subsection (9) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. “Employee” means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. ~~109.402 110.402~~ or any person holding a position in the Selected Exempt Service as defined in s. ~~109.602 110.602~~ or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. “Appointed state officer” means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. “State agency” means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

Section 87. Paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, is amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public’s health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.

2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.

3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 109 110.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 88. Subsection (2) of section 112.363, Florida Statutes, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

Section 89. Effective July 1, 2001, paragraph (a) of subsection (2) of section 112.363, Florida Statutes, as amended by chapter 2000-169, Laws of Florida, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments.

Section 90. Subsection (38) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. 109.203(24) ~~110.203(24)~~ or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(2)(a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s.

121.0515(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

Section 91. Paragraph (b) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(3) PROCEDURE FOR DESIGNATING.—

(b1). Applying the criteria set forth in this section, the Department of Management Services shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter 109 ~~110~~ entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. When a class is not specified by the department as provided in subparagraph 1., the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

Section 92. Paragraph (a) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)(a) Participation in the Senior Management Service Class shall be limited to and compulsory for any member of the Florida Retirement System who holds a position in the Senior Management Service of the State of Florida, established by part III of chapter 109 ~~110~~, unless such member elects, within the time specified herein, to participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 93. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

3. The Chancellor and the university presidents.

Section 94. Subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of the Department of Management Services.

(b) Recruitment and examination.

(c) Time reporting.

(d) Collective bargaining.

Section 95. Subsection (2) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(2) For purposes of this chapter, terms related to personnel affairs of the state shall be defined as set forth in s. 109.203 ~~110.203~~.

Section 96. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 109 ~~110~~.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the President of the Senate and the Speaker of the House of Representatives, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 97. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. 109.122 ~~110.122~~. Educational personnel in Department of Children and Family Services residential care facilities who are employed by a district

school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 98. Paragraph (c) of subsection (1) of section 235.217, Florida Statutes, is amended to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)

(c) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department, except as otherwise provided in chapters 109 ~~110~~, 255, and 287 for agencies of the executive branch.

Section 99. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules relating to the appointment, employment, and removal of personnel which delegate its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. 109.116, 109.123, 109.1232, 109.1234, and 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121, 122, and 238. The board shall adopt rules to provide for a coordinated, efficient systemwide program and shall delegate to the universities authority for implementing the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. The salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 100. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes, is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. 109.1245 ~~110.1245~~, the Board of Regents and each university shall promulgate rules for an employee recognition program which provides for the following components:

1. A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. No cash award under the superior accomplishment component of the program shall exceed \$1,000, excluding applicable taxes.

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed \$50, excluding applicable taxes.

Section 101. Section 240.507, Florida Statutes, is amended to read:

240.507 Extension personnel; federal health insurance programs notwithstanding the provisions of s. 109.123 ~~110.123~~.—The Institute of Food and Agricultural Sciences at the University of Florida is authorized to pay the employer's share of premiums to the Federal Health Benefits Insurance Program from its appropriated budget for any cooperative extension employee of the institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Section 102. Subsection (9) of section 241.002, Florida Statutes, is amended to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter 109 ~~110~~ and is included in the Senior Management Service in accordance with s. 109.205 ~~110.205~~.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 103. Paragraph (b) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(b) Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 109.205(2)(d) ~~110.205(2)(d)~~ and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 109 ~~110~~, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

Section 104. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 109.501 ~~110.501~~, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

Section 105. Paragraph (a) of subsection (4) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services, Florida Capitol Police.—The Department of Management Services, Florida Capitol Police, has the following powers and duties:

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter 109 ~~110~~, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

Section 106. Section 287.175, Florida Statutes, is amended to read:

287.175 Penalties.—A violation of this part or a rule adopted hereunder, pursuant to applicable constitutional and statutory procedures, constitutes misuse of public position as defined in s. 112.313(6), and is punishable as provided in s. 112.317. The Comptroller shall report incidents of suspected misuse to the Commission on Ethics,

and the commission shall investigate possible violations of this part or rules adopted hereunder when reported by the Comptroller, notwithstanding the provisions of s. 112.324. Any violation of this part or a rule adopted hereunder shall be presumed to have been committed with wrongful intent, but such presumption is rebuttable. Nothing in this section is intended to deny rights provided to career service employees by s. 109.227 ~~110.227~~.

Section 107. Subsection (2) of section 288.708, Florida Statutes, is amended to read:

288.708 Executive director; employees.—

(2) The executive director and all employees of the board shall be exempt from the provisions of part II of chapter 109 ~~110~~, and the executive director shall be subject to the provisions of part III ~~IV~~ of chapter 109 ~~110~~.

Section 108. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. 109.205(2) ~~110.205(2)~~; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included.

Section 109. Subsection (3) and paragraph (b) of subsection (4) of section 296.04, Florida Statutes, are amended to read:

296.04 Administrator; duties and qualifications; responsibilities.—

(3) The administrator shall be a resident of the state at the time of entering into employment in the position. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall afford applicants veterans' preference in appointment in accordance with ss. 295.07 and 295.085. In addition, the administrator must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in a health care facility, or any equivalent combination of experience, training, and education totaling 7 years in work relating to administration of a health care facility.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 110. Subsection (1) and paragraph (b) of subsection (4) of section 296.34, Florida Statutes, are amended to read:

296.34 Administrator; qualifications, duties, and responsibilities.—

(1) The director shall appoint an administrator of the home who shall be the chief executive of the home. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall give preference in appointment as provided in ss. 295.07 and 295.085 to applicants for the position of administrator.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 111. Subsection (5) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. ~~109.112 110-112~~.

Section 112. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.
2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.
3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.
4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.
5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.
6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.
7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 109 ~~110~~ and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.
8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 113. Subsection (4) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(4) The authority shall institute procedures to ensure that jobs created as a result of state funding pursuant to this section shall be subject to equal opportunity hiring practices as provided for in s. ~~109.112 110-112~~.

Section 114. Paragraph (e) of subsection (3) of section 381.85, Florida Statutes, is amended to read:

381.85 Biomedical and social research.—

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter 109 ~~110~~ relating to the Career Service System.

Section 115. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. ~~109.1127(3) 110-1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 116. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. The agency shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 109 ~~110~~.

Section 117. Subsection (3) of section 400.953, Florida Statutes, is amended to read:

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(3) Proof of compliance with the screening requirements of s. ~~109.1127 110-1127~~, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening

requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

Section 118. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 109.1127(3) ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 119. Subsection (4) of section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(4) Notwithstanding the provisions of chapter 109 ~~110~~, the departments may grant special pay increases to management fellows upon successful completion of the program.

Section 120. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. 109.205(2)(h) ~~110.205(2)(h)~~, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career service employees.

Section 121. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 109.1127(3) ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 122. Paragraph (o) of subsection (1) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(o) "Safety-sensitive position" means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position

that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. 109.1127 ~~110.1127~~; or a position in which a momentary lapse in attention could result in injury or death to another person.

Section 123. Paragraph (a) of subsection (3) of section 440.4416, Florida Statutes, is amended to read:

440.4416 Workers' Compensation Oversight Board.—

(3) EXECUTIVE DIRECTOR; EXPENSES.—

(a) The board shall appoint an executive director to direct and supervise the administrative affairs and general management of the board who shall be subject to the provisions of part V ~~IV~~ of chapter 109 ~~110~~. The executive director may employ persons and obtain technical assistance as authorized by the board and shall attend all meetings of the board. Board employees shall be exempt from part II of chapter 109 ~~110~~.

Section 124. Subsection (4) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports; proceedings; state-federal cooperation.—

(4) PERSONNEL.—Subject to chapter 109 ~~110~~ and the other provisions of this chapter, the division is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such employees, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this chapter. The division may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this chapter and may in its discretion bond any person handling moneys or signing checks hereunder; the cost of such bonds shall be paid from the Employment Security Administration Trust Fund.

Section 125. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section 109.124 ~~110.124~~, relating to termination or transfer of State Career Service System employees aged 65 or older.

Section 126. Paragraph (a) of subsection (2) of section 456.048, Florida Statutes, is amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. 109.501(1) ~~110.501(1)~~.

Section 127. Subsection (3) of section 471.038, Florida Statutes, is amended to read:

471.038 Florida Engineers Management Corporation.—

(3) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455 and this chapter. The management corporation may hire staff as necessary to carry out its

functions. Such staff are not public employees for the purposes of chapter 109 ~~110~~ or chapter 112, except that the board of directors and the staff are subject to the provisions of s. 112.061. The provisions of s. 768.28 apply to the management corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The management corporation shall:

- (a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.
- (b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455, this chapter, and the contract required by this section.
- (c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the board, and in accordance with the contract required by this section.
- (d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.
- (e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.
- (f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. All initial appointments shall expire on October 31, 2000. Current members may be appointed to one additional term that complies with the provisions of this paragraph. Two members shall be appointed for 2 years, three members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board, and the vacancy shall be filled by a new appointment.
- (g) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.
- (h) Use a portion of the interest derived from the management corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.
- (i) Operate under an annual written contract with the department which is approved by the board. The contract must provide for, but is not limited to:
 1. Approval of the articles of incorporation and bylaws of the management corporation by the department and the board.
 2. Submission by the management corporation of an annual budget that complies with board rules for approval by the board and the department.
 3. Annual certification by the board and the department that the management corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes. The contract must also provide for methods and mechanisms to resolve any situation in which the certification process determines noncompliance.
 4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the management corporation to ensure compliance with the contract and the provisions of chapter 455 and this chapter and to act as a liaison for the department, the board, and the management corporation to ensure the effective operation of the management corporation.
5. Funding of the management corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.
6. The reversion to the board, or the state if the board ceases to exist, of moneys, records, data, and property held in trust by the management corporation for the benefit of the board, if the management corporation is no longer approved to operate for the board or the board ceases to exist. All records and data in a computerized database shall be returned to the department in a form that is compatible with the computerized database of the department.
7. The securing and maintaining by the management corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the management corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The management corporation must provide proof of insurance to the department. The department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the management corporation. Violation of this subparagraph shall be grounds for terminating the contract.
8. Payment by the management corporation, out of its allocated budget, to the department of all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.
9. Payment by the management corporation, out of its allocated budget, to the department of all costs incurred by the management corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.
10. Payment by the management corporation, out of its allocated budget, to the department of all costs associated with the contract administrator of the department, including salary and benefits, travel, and other related costs traditionally paid to state employees.
- (j) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.
- (k) Provide for persons charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.
 - (l) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.
 - (m) Develop, with the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

Section 128. Subsection (3) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. ~~109.227~~ ~~110.227~~.

Section 129. Effective July 1, 2001, subsection (3) of section 509.036, Florida Statutes, as amended by this act, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for *reasonable* cause as set forth in s. 109.227.

Section 130. Subsection (1) of section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. ~~109.205~~ ~~110.205~~ in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation relating to any matter over which the department has jurisdiction or which occurs on property owned, managed, or occupied by the department. Those matters include laws relating to:

- (a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.
- (b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.
- (c) Trespass, littering, forests, forest fires, and open burning.
- (d) Damage to or theft of forest products.
- (e) Enforcement of a marketing order.
- (f) Protection of consumers.
- (g) Civil traffic offenses provided for in chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over which the department has jurisdiction or committed on property owned, managed, or occupied by the department.
- (h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.
- (i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.
- (j) Any crime incidental to or related to paragraphs (a)-(i).

Section 131. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt under s. ~~109.205~~ ~~110.205~~ in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 132. Subsection (6) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter ~~109~~ ~~110~~. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.

Section 133. Subsection (4) of section 627.0623, Florida Statutes, is amended to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section, "employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Service as defined in s. ~~109.402~~ ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. ~~109.602~~ ~~110.602~~; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 134. Paragraph (h) of subsection (4) of section 627.6488, Florida Statutes, is amended to read:

627.6488 Florida Comprehensive Health Association.—

(4) The association shall:

(h) Contract with preferred provider organizations and health maintenance organizations giving due consideration to the preferred provider organizations and health maintenance organizations which have contracted with the state group health insurance program pursuant to s. ~~109.123~~ ~~110.123~~. If cost-effective and available in the county where the policyholder resides, the board, upon application or renewal of a policy, shall place a high-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who shall determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. If cost-effective and available in the county where the policyholder resides, the board, with the consent of the policyholder, may place a low-risk or medium-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who may determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. Prior to and during the implementation of case management, the plan case manager shall obtain input from the policyholder, parent, or guardian.

Section 135. Paragraph (a) of subsection (1) of section 627.649, Florida Statutes, is amended to read:

627.649 Administrator.—

(1) The board shall select an administrator, through a competitive bidding process, to administer the plan. The board shall evaluate bids submitted under this subsection based on criteria established by the board, which criteria shall include:

(a) The administrator's proven ability to handle large group accident and health insurance, and due consideration shall be given to any administrator who has acted as a third-party administrator for the state group health insurance program pursuant to s. ~~109.123~~ ~~110.123~~.

Section 136. Paragraph (a) of subsection (2) and subsection (3) of section 627.6498, Florida Statutes, are amended to read:

627.6498 Minimum benefits coverage; exclusions; premiums; deductibles.—

(2) BENEFITS.—

(a) The plan shall offer major medical expense coverage similar to that provided by the state group health insurance program as defined in s. 109.123 ~~110.123~~ except as specified in subsection (3) to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to limits on the deductible and coinsurance payments authorized under subsection (4), up to a lifetime limit of \$500,000 per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(3) COVERED EXPENSES.—The coverage to be issued by the association shall be patterned after the state group health insurance program as defined in s. 109.123 ~~110.123~~, including its benefits, exclusions, and other limitations, except as otherwise provided in this act. The plan may cover the cost of experimental drugs which have been approved for use by the Food and Drug Administration on an experimental basis if the cost is less than the usual and customary treatment. Such coverage shall only apply to those insureds who are in the case management system upon the approval of the insured, the case manager, and the board.

Section 137. Subsection (4) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(4) The provisions of this section shall not apply to a multiple-employer welfare arrangement as defined in s. 624.437(1) and in the State Health Plan as provided in s. 109.123 ~~110.123~~.

Section 138. Subsection (3) of section 655.019, Florida Statutes, is amended to read:

655.019 Campaign contributions; limitations.—

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 139. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as

a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 140. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the

requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 109.1127(3) ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 141. Subsection (4) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(4) No individual filling a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~ is eligible to participate in the salary incentive program authorized by this section.

Section 142. Paragraph (c) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 109.227 ~~110.227~~ for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 143. Subsection (2) of section 945.043, Florida Statutes, is amended to read:

945.043 Department-operated day care services.—

(2) The department is exempt from the requirements of s. 109.151 ~~110.151~~.

Section 144. Subsection (6) of section 957.03, Florida Statutes, is amended to read:

957.03 Correctional Privatization Commission.—

(6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.—The commission shall be a separate budget entity, and the executive director shall be its chief administrative officer. The Department of Management Services shall provide administrative support and service to the commission to the extent requested by the executive director. The commission and its staff are not subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, and budgetary matters, except to the extent as provided in chapters 109 ~~110~~, 216, 255, 282, and 287 for agencies of the executive branch. The executive director may designate a maximum of two policymaking or managerial positions as being exempt from the Career Service System. These two positions may be provided for as members of the Senior Management Service.

Section 145. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 146. Paragraph (e) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407.

Section 147. Paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, is amended to read:

985.4045 Sexual misconduct prohibited; reporting required; penalties.—

(1)

(b) Notwithstanding prosecution, any violation of this subsection, as determined by the Public Employees Relations Commission, constitutes sufficient cause under s. 109.227 ~~110.227~~ for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the juvenile justice system.

Section 148. Paragraph (c) of subsection (1) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)

(c)1. The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

3.a. *A state agency may be eligible for an efficiency award based on changes to authorized positions. To be eligible, the agency must submit an application to the Legislative Budgeting Commission identifying the modification to an approved program resulting in efficiency and cost savings.*

b. *The amount of the efficiency award shall be determined by the Legislative Budgeting Commission but shall not exceed the actual savings of currently appropriated funds. In determining the amount of the award, the Legislative Budgeting Commission shall consider the actual savings for the current year and the annualized savings. The efficiency award may be used for nonrecurring purposes only.*

c. *Each state agency allowed to retain salary appropriations pursuant to this subparagraph shall submit in its next legislative budget request a schedule showing how the agency utilized such funds.*

Section 149. Effective January 1, 2002, section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—~~It is declared that~~ The public policy of this state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. ~~It is the intent of the Legislature that~~ Nothing herein shall be construed either to encourage or discourage organization of public employees. *This state's public policy is* ~~These policies are~~ best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 150. Effective January 1, 2002, subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) ~~There is hereby created within the Department of Labor and Employment Security~~ The Public Employees Relations Commission, hereinafter referred to as the "commission," ~~The commission~~ shall be composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of ~~Management Services~~ ~~Labor and Employment Security~~.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of ~~Management Services~~ ~~Labor and Employment Security~~.

Section 151. *Effective January 1, 2002, subsections (8), (9), (10), and (11) of section 447.207, Florida Statutes, are repealed.*

Section 152. Effective July 1, 2001, section 447.208, Florida Statutes, is amended to read:

447.208 Procedure ~~for with respect to~~ certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and

an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to demotions, suspensions, or dismissals pursuant to the provisions of this section:

(a)1. For an alleged adverse agency action against an employee, except a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the burden of proof shall be on the employee requesting the appeal to establish by a preponderance of the evidence that the agency head abused his or her discretion in demoting, suspending, or dismissing the employee and that no reasonable cause existed for the alleged adverse action taken by the agency.

2.(a) Upon a finding that the adversely affected employee was unable to establish that the agency head abused his or her discretion and was unable to establish that no reasonable just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

3.(b) Upon a finding that the adversely affected employee established that the agency head abused his or her discretion and that no reasonable just cause existed ~~did not exist~~ for the demotion, suspension, or dismissal, the commission may order the reinstatement of the employee, with or without back pay.

(b) With regard to a law enforcement or correctional officer or a firefighter:

1. Upon a finding that just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

2. Upon a finding that just cause did not exist for the demotion, suspension, or dismissal, the commission may order the reinstatement of the law enforcement or correctional officer or firefighter, with or without back pay.

3.(c) Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the commission may, in its limited discretion, reduce the penalty.

(d) The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

a.1. The seriousness of the conduct as it relates to the employee's duties and responsibilities.

b.2. Action taken with respect to similar conduct by other employees.

c.3. The previous employment record and disciplinary record of the employee.

d.4. Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his or her duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

(c)(e) Any order of the commission issued pursuant to this subsection may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission finds ~~sustains~~ the employee met his or her burden of proof by establishing that the agency head abused his or her discretion and that no reasonable cause existed for the employee's demotion, suspension, or

dismissal. In determining the amount of an attorney's fee, the commission shall consider only the number of hours reasonably spent on the appeal, comparing the number of hours spent on similar Career Service System appeals and the reasonable hourly rate charged in the geographic area for similar appeals, but not including litigation over the amount of the attorney's fee. ~~This paragraph applies to future and pending cases.~~

Section 153. Effective January 1, 2002, sections 447.208 and 447.2085, Florida Statutes, are repealed.

Section 154. Paragraph (i) is added to subsection (4) of section 447.307, Florida Statutes, to read:

447.307 Certification of employee organization.—

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(i) Notwithstanding any other provision of law, administrative rule, or decision to the contrary, it is in the best interest of the state that all state law enforcement agencies with 1,200 or more officers shall be placed in a separate bargaining unit from officers in other state law enforcement agencies. Should application of this requirement result in the establishment or recomposition of more than one state law enforcement bargaining unit, a question concerning representation shall be deemed to have arisen for each affected bargaining unit and, upon appropriate petition, a representation election to determine the bargaining representative shall be conducted.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

Section 155. Effective July 1, 2001, paragraph (a) of subsection (6) of section 447.503, Florida Statutes, is amended to read:

447.503 Charges of unfair labor practices.—It is the intent of the Legislature that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the commission in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(6)(a) If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged *as otherwise provided by law for cause*. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

Section 156. Paragraph (a) of subsection (5) of section 447.507, Florida Statutes, is amended to read:

447.507 Violation of strike prohibition; penalties.—

(5) If the commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that an employee has violated s. 447.505, it may order the termination of his or her employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of 18 6 months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without permanent status and at the pleasure of the agency head tenure. During this period, the person may be discharged only upon a showing of just cause.

Section 157. Effective January 1, 2002, paragraph (m) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (4), shall be granted only to the following persons, officials, and agencies:

(m) The Office of Employee Relations within the Department of Management Services Public Employees Relations Commission for the sole purpose of obtaining evidence for voluntary binding arbitration conducted appeals filed pursuant to s. 109.240 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

Section 158. Effective January 1, 2002, subsection (4) of section 112.044, Florida Statutes, as amended by this act, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 109 and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act, unless voluntary binding arbitration is conducted pursuant to s. 109.240.

Section 159. Effective January 1, 2002, paragraph (b) of subsection (6), subsection (14), and paragraph (a) of subsection (15) of section 112.0455, Florida Statutes, are amended to read:

112.0455 Drug-Free Workplace Act.—

(6) NOTICE TO EMPLOYEES.—

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.

5. The consequences of refusing to submit to a drug test.

6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240 Public Employees Relations Commission.

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240 Public Employees Relations Commission. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. 447.401. Such appeals shall be resolved pursuant to the procedures established in ss. 447.207(1)(4), 447.208(2), and 447.503(4) and (5). A hearing on the appeal shall be conducted within 30 days after of the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the court commission or a collective bargaining grievance an arbitrator.

(b) The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.

(c) Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However, Nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. 447.401 provided that an employee or job applicant may not file both an appeal and a grievance.

(d) An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance-arbitration process.

(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:

1. Revoke the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.

2. Order compliance with paragraph (10)(g).

3. Award back pay and benefits.

(b)4. The court may award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.

(15) NONDISCIPLINE REMEDIES.—

(a) Any person alleging a violation of the provisions of this section, that is not remediable ~~by the commission or an arbitrator~~ pursuant to subsection (14), must institute a civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.
2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

Section 160. Effective July 1, 2001, paragraph (a) of subsection (3) and subsection (4) of section 112.31895, Florida Statutes, are amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.
2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.
3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.
4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.
5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.
6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, *the Office of Employee Relations*, the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.
7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.
8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.
9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before ~~an the Public Employees Relations Commission or any other appropriate~~ agency, except that the Florida Commission on Human Relations must comply with the rules of ~~that the commission or other~~ agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.
10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited

action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(4) RIGHT TO APPEAL.—

~~(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file for judicial review of the notice of termination as provided for in s. 120.68. The notice of termination of the investigation, which shall contain a statement of facts, analysis, and conclusions, shall be considered final agency action for purposes of s. 120.68., with the Public Employees Relations Commission, a complaint against the hearings regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).~~

~~(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.~~

Section 161. Effective January 1, 2002, paragraph (a) of subsection (3) of section 112.31895, Florida Statutes, as amended by this act, is amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.
2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.
3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.
4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.
5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.
6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, *the Office of Employee Relations*, ~~the Public Employees Relations Commission~~, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.
7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.
8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.
9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before an agency, except that the Florida Commission on Human Relations must comply with the rules of that agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

Section 162. Effective July 1, 2001, subsection (12) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(12) *OFFICE OF EMPLOYEE RELATIONS; PUBLIC EMPLOYEES RELATIONS COMMISSION.*—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the *Office of Employee Relations within the Department of Management Services or the Public Employees Relations Commission* need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

Section 163. *Paragraph (d) of subsection (2) of section 125.0108, Florida Statutes, is repealed.*

Section 164. Paragraph (b) of subsection (9) of section 376.75, Florida Statutes, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(9)

~~(b) The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.~~

Section 165. Paragraph (b) of subsection (3) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(3)

~~(b) The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.~~

Section 166. Section 538.11, Florida Statutes, is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. ~~The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall~~

remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Section 167. Effective July 1, 2001, section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the “State Risk Management Trust Fund,” is created to be set up by the Department of Insurance and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers’ compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney’s fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. A party to a suit in any court, to be entitled to have his or her attorney’s fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Insurance; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 168. Effective July 1, 2001, section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers’ compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney’s fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. Unless specifically excluded by the Department of Insurance, the insurance risk management trust fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Insurance.

Section 169. Effective January 1, 2002, paragraph (k) of subsection (3) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(k) ~~The Office of Employee Relations Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted appeals filed* pursuant to s. 109.240 and *the Public Employees Relations Commission for the purpose of obtaining evidence for appeals filed* pursuant to s. 447.207. Records may be released only after deletion of all information that specifically identifies persons other than the employee.

Section 170. *Effective January 1, 2002, paragraph (c) of subsection (3) of section 944.35, Florida Statutes, and paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, are repealed.*

Section 171. *The Office of Employee Relations within the Department of Management Services shall coordinate the development and implementation of a transition plan that supports the implementation of this act. The Department of Labor and Employment Security, the Public Employees Relations Commission, and all other state agencies identified by the office shall cooperate fully in developing and implementing the plan and shall dedicate the financial and staff resources that are necessary for such implementation.*

Section 172. (1) *Until July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to the authority granted it under the Florida Statutes 2000.*

(2) *On and after July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to this act's amendments which take effect July 1, 2001. As to those cases within the Public Employees Relations Commission jurisdiction regarding the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of a career service employee that are pending before the commission on January 1, 2002, the commission shall continue to exercise its authority in order to finalize those existing cases under review.*

(3) *After June 30, 2002, the jurisdiction of the Public Employees Relations Commission to hear appeals arising out of any suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee in the Career Service System shall cease to exist.*

Section 173. *There is appropriated to the Department of Management Services for fiscal year 2000-2001, \$26,208 of nonrecurring general revenue for the purpose of establishing an administrative staff to implement the provisions of this act.*

Section 174. *Effective January 1, 2002, the Public Employees Relations Commission is transferred from the Department of Labor and Employment Security to the Department of Management Services. The Public Employees Relations Commission shall have all its statutory powers, duties, and functions, as otherwise provided for in this act, transferred to the Department of Management Services. All the Public Employees Relations Commission's records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred to the Department of Management Services as of January 1, 2002, except that such portion of the personnel, property, and unexpended balances of appropriations, allocations, or other funds shall be transferred to the Office of Employee Relations within the Department of Management Services as is sufficient for that office to accomplish its duties and responsibilities as provided for in this act. Accordingly, the Executive Office of the Governor shall process a budget amendment, or budget amendments, subject to legislative notice and review under s. 216.177, Florida Statutes, to transfer such records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Public Employees Relations Commission to the Office of Employee Relations as is sufficient for that office to perform its statutory duties and responsibilities. The Office of Employee Relations, the Public Employees Relations Commission, and the Department of Management Services shall work cooperatively in preparing and forwarding to the Executive Office of the Governor a recommended budget amendment, or amendments, no later than September 1, 2001.*

Section 175. *The Department of Management Services shall adopt, amend, or repeal rules as necessary to effectuate the provisions of chapter 109, Florida Statutes, as created by this act, and in accordance with the authority granted to the department in chapter 109, Florida Statutes.*

Section 176. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public employees; renumbering parts I, II, III, IV, and V of ch. 110, F.S., as parts I, II, III, IV, and V of ch. 109, F.S.; amending and renumbering s. 110.107, F.S.; revising definitions; repealing s. 110.108, F.S., relating to pilot projects for agencies seeking managerial flexibility for personnel

programs, s. 110.109, F.S., relating to personnel audits of agencies, and s. 110.1095, F.S., relating to training programs for supervisors and managers; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; amending and renumbering s. 110.112, F.S.; providing policy relating to use of human resources; revising provisions relating to implementation of affirmative action plans by agency heads, state attorneys, and public defenders; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.124, F.S.; providing that an employee who is terminated solely because of attaining age 65 may request voluntary binding arbitration or apply to the circuit court for relief; amending and renumbering s. 110.1245, F.S.; providing for a savings sharing program of awards for certain state agency and judicial branch employees; requiring a report; providing for annual bonus payments to employees; directing agency heads to develop a plan for awarding bonuses and providing requirements with respect thereto; authorizing department heads to incur expenditures for certain awards; repealing s. 110.1246, F.S., which provides for lump-sum bonus payments to employees; amending and renumbering s. 110.131, F.S.; revising the time limitation on employment of other-personal-services temporary employees; requiring approval of the Governor's Office of Policy and Budget for extensions of such limitations; revising exemptions from such limitation; amending and renumbering s. 110.203, F.S.; revising definitions; revising the definition of "layoff" to include outsourcing or privatization; creating s. 109.2035, F.S.; directing the Department of Management Services, in consultation with specified entities, to develop a civil service classification and compensation program and providing requirements with respect thereto; directing the department to establish guidelines regarding certain types of pay and providing duties of agencies with respect thereto; amending and renumbering s. 110.205, F.S.; providing additional positions that are exempt from the Career Service System and included in the Selected Exempt Service; providing that when an employee transfers from the Career Service System to the Selected Exempt Service, unused annual and sick leave, and, under certain conditions, unused compensatory leave, shall carry forward; repealing ss. 109.207 and 109.209, F.S., as renumbered by the act, relating to establishment and maintenance of a uniform classification plan and an equitable pay plan and related agency duties; amending and renumbering ss. 110.211 and 110.213, F.S.; revising requirements with respect to recruitment and selection; requiring completion of a probationary period before attainment of permanent status for new employees; amending and renumbering s. 110.219, F.S.; providing requirements regarding leave benefits for Senior Management Service employees; providing for an annual payout of unused annual leave for career service employees; amending and renumbering s. 110.224, F.S.; revising requirements relating to a review and performance planning system and designating such system a public employee performance evaluation system; revising requirements relating to certain information furnished to employees and employee evaluation; amending and renumbering s. 110.227, F.S.; providing that a career service employee other than a law enforcement or correctional officer or a firefighter may be suspended or dismissed for reasonable cause; providing that reasonable cause shall be determined by the agency head and specifying actions included thereunder; specifying actions that constitute an abuse of the agency head's sound discretion; revising certain responsibilities of agency heads; providing that, except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area with regard to employees other than law enforcement or correctional officers or firefighters; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; providing that, for any alleged adverse agency action against an employee other than a law enforcement or correctional officer or a firefighter occurring after a specified date, the employee bears the burden of proof to establish that the agency head abused his or her discretion; creating s. 109.237, F.S.; creating an Office of Employee Relations within the Department of Management Services; providing for an executive director, a general

counsel, and an administrative assistant, and their qualifications and duties; providing for additional personnel; providing duties of the department; providing powers and duties of the office; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employee's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the office; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit court for an order confirming, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, 110.605, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 216.262, F.S.; authorizing efficiency awards to state agencies based on changes to authorized positions and providing requirements with respect thereto; amending s. 447.201, F.S., relating to the statement of public policy regarding public employees; amending s. 447.205, F.S., relating to creation of the Public Employees Relations Commission; repealing s. 447.207(8), (9), (10), and (11), F.S., which provide for appeals to the commission with regard to adverse agency actions against career service employees; amending s. 447.208, F.S.; providing the employee's burden of proof for alleged adverse agency actions occurring on or after July 1, 2001; repealing s. 447.208, F.S., which provides procedures for appeals to the commission regarding certain adverse agency actions, and s. 447.2085, F.S., which provides for rules with respect thereto, effective January 1, 2002; amending s. 447.307, F.S.; providing requirements with respect to bargaining units for certain law enforcement agencies; amending s. 447.503, F.S.; conforming language; amending s. 447.507, F.S.; revising conditions under which a person who violates the strike prohibition may be employed or appointed; amending s. 39.202, F.S.; providing for access to certain records by the office; amending s. 112.044, F.S., which prohibits age discrimination against public employees; providing for court action by an aggrieved employee if voluntary binding arbitration is not conducted; amending s. 112.0455, F.S., the Drug-Free Workplace Act; providing for appeals with respect to discipline or not being hired under said act to the circuit court rather than the commission, or for voluntary binding arbitration; amending s. 112.31895, F.S.; providing for judicial review of notice of termination of an investigation in connection with the Whistle-blower's Act rather than commission review; conforming language; amending s. 120.80, F.S.; conforming language; repealing s. 125.0108(2)(d), F.S., and amending ss. 376.75, 403.718, and 538.11, F.S.; removing provisions which authorize certain actions by the Department of Revenue pursuant to rules of the commission or the Career Service Commission; amending ss. 284.30 and 284.31, F.S.; conforming language; amending s. 415.107, F.S.; providing for access to certain records by the office; repealing ss. 944.35(3)(c) and 985.4045(1)(b), F.S., which provide that violations by Department of Corrections employees of prohibitions against malicious battery and sexual misconduct, and violations by Department of Juvenile Justice employees of the prohibition against sexual misconduct, as determined by the commission, constitute cause for dismissal; directing the office to coordinate a transition plan; specifying

transitional powers and duties of the commission and providing that it shall cease to hear certain appeals after June 30, 2002; providing an appropriation; transferring the commission to the Department of Management Services and certain of its property and personnel to the office; providing for budget amendments; providing for rules; providing effective dates.

Rep. Diaz-Balart moved the adoption of the substitute amendment.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 622703)

Amendment 1 to Substitute Amendment 1—On page 41, line 22 through page 43, line 27, remove from the substitute amendment: all of said lines

and insert in lieu thereof: rebuttal must be substantiated. *Any any* employee who is suspended or dismissed *on or after January 1, 2002*, pursuant to the provisions of this paragraph shall be entitled to a hearing before the *circuit court*, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.~~

(6) *For any alleged adverse agency action against an employee, other than a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the adversely affected employee bears the burden of proof to establish by preponderance of the evidence that the agency head abused his or her discretion in suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee and that no reasonable cause existed for the alleged adverse action taken by the agency, or that the alleged adverse action was in violation of s. 109.233. For any alleged adverse agency action against a law enforcement or correctional officer or a firefighter occurring on or after July 1, 2001, the agency must prove just cause for suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee.*

(7)(6) A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee *believes* ~~thinks or feels~~ that any condition affecting the employee is unjust, inequitable, or a hindrance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless the *employee alleges* ~~it is alleged~~ that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(8)(7) The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, an affected

law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *An an* employee who is suspended or dismissed *on or after January 1, 2002*, shall be

Rep. Byrd moved the adoption of the amendment to the substitute amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 702197)

Amendment 2 to Substitute Amendment 1 (with directory language and title amendments)—On page 36, lines 18-26, remove from the substitute amendment: all of said lines

And the directory language is amended as follows:

On page 36, line 4,
remove: subsections (6) and (7) are

and insert in lieu thereof: subsection (6) is

And the title is amended as follows:

On page 158, lines 28-30, of the amendment
remove: all of said lines

and insert in lieu thereof: Senior Management Service employees; amending and

Rep. Diaz-Balart moved the adoption of the amendment to the substitute amendment, which was adopted.

Representative(s) Ausley offered the following:

(Amendment Bar Code: 105921)

Amendment 3 to Substitute Amendment 1 (with title amendment)—On page 156, line 2,

insert: Section 176. *The Department of Management Services shall conduct a market survey of pay differentials between comparable job classifications in the state personnel system and private sector employment. The department shall report the findings of the survey to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2002. The Governor shall include in his recommended budget for fiscal year 2002-2003, sufficient funding of all positions in the state personnel system at the same level as the survey results for the comparable positions in private employment. For the current fiscal year, there shall be appropriated from General Revenue, an amount sufficient to provide every employee in the career service system a \$1,000 increase in salary.*

And the title is amended as follows:

On page 164, line 3,

insert after "rules,": directing the department to conduct a market survey of pay differentials between state and private employment; providing an appropriation for a salary increase for employees in the career service system:

Rep. Ausley moved the adoption of the amendment to the substitute amendment, which failed of adoption.

Representative(s) Frankel offered the following:

(Amendment Bar Code: 130033)

Amendment 4 to Substitute Amendment 1—On page 32, line 28, after the word "officers" insert: *, that the agency head may exempt; provided the employees are determined by the agency head to not be in a position requiring the exercise of independent judgment, where exempt status could hinder the exercise of such independent judgment and put*

undue pressure on the employee in the execution of his duties, such that exempting the position is not in the public interest.

Rep. Frankel moved the adoption of the amendment to the substitute amendment. Subsequently, **Amendment 4 to Substitute Amendment 1** was withdrawn.

Representative(s) Ausley offered the following:

(Amendment Bar Code: 393111)

Amendment 5 to Substitute Amendment 1 (with title amendment)—On page 38, line 5, through page 137, line 28, remove from the substitute amendment: all of said lines

and insert in lieu thereof:

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and subsection (2) of said section is amended, and, effective July 1, 2001, subsections (1), (3), and (6) of said section are amended, and, effective January 1, 2002, subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

~~109.227~~ ~~110.227~~ Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(1) Any employee who has permanent status in the career service may only be suspended or dismissed for *just* cause. *Just* cause shall include, but not be limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, willful violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime involving moral turpitude. Each agency head shall ensure that all employees of the agency are completely familiar with the agency's established procedures on disciplinary actions and grievances.

(2) The department shall establish rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees in the career service. *Except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff procedures shall not include any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but either vacant or already occupied by an employee of less seniority, and taking that position, commonly referred to as "bumping."* Such rules shall be approved by the Administration Commission prior to their adoption by the department. *This subsection does not prohibit collective bargaining units from seeking to incorporate "bumping" in their collective bargaining agreements.*

(3)(a) *With regard to law enforcement or correctional officers or firefighters, when a layoff becomes necessary, such layoff shall be conducted within the competitive area identified by the agency head and approved by the Department of Management Services. Such competitive area shall be established taking into consideration the similarity of work; the organizational unit, which may be by agency, department, division, bureau, or other organizational unit; and the commuting area for the work affected.*

(b) Layoff procedures shall be developed to establish the relative merit and fitness of employees and shall include a formula for uniform application among *potentially adversely affected employees, or, with respect to law enforcement or correctional officers or firefighters, among all employees in the competitive area, taking into consideration the type of appointment, the length of service, and the evaluations of the employee's performance within the last 5 years of employment.*

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002, such actions shall be appealable to the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission. Appeals based on the protections provided*

by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.

(5)

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 days' prior notice, provided that written or oral notice of such action, evidence of the reasons therefor, and an opportunity to rebut the charges are furnished to the employee prior to such dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Agency compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated. As of January 1, 2002, any employee who is suspended or dismissed pursuant to the provisions of this paragraph shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.

(6) A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee believes thinks or feels that any condition affecting the employee is unjust, inequitable, or a hinderance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless the employee alleges it is alleged that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(7) The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, the affected employee shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. As of January 1, 2002, an employee who is suspended or dismissed shall be entitled to a hearing before the circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240 Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission. Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.

Section 52. Section 110.233, Florida Statutes, is renumbered as section 109.233, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended to read:

109.233 110.233 Political activities and unlawful acts prohibited.—

(4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:

(a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department of Management Services as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department of Management Services shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.

Section 53. Section 110.235, Florida Statutes, is renumbered as section 109.235, Florida Statutes, and subsection (1) of said section is amended to read:

109.235 110.235 Training.—

(1) It is the intent of the Legislature that State agencies shall implement training programs that encompass modern management principles, and that provide the framework to develop human resources through empowerment, training, and rewards for productivity enhancement; to continuously improve the quality of services; and to satisfy the expectations of the public.

Section 54. Section 109.237, Florida Statutes, is created to read:

109.237 Office of Employee Relations.—

(1) There is created within the Department of Management Services the Office of Employee Relations, hereinafter referred to as the "office." The Governor shall appoint an executive director of the office. The executive director shall serve at the pleasure of and report to the Governor. The executive director must be a member in good standing of The Florida Bar, have a minimum of 5 years of legal experience, and be knowledgeable regarding and have a background in the laws regarding state employees, the Career Service System, employee bargaining units, and collective bargaining. The executive director shall serve on a full-time basis, and shall personally, or through a representative of the office, carry out the purposes and functions of the office in accordance with state and federal law. The executive director shall be responsible for the administrative functions of the office. The executive director shall make all planning, personnel, and budgeting decisions with regard to the office. The executive director shall be solely responsible for administering the voluntary binding arbitration program provided for by s. 109.240. The executive director, or the executive director's designee, shall be responsible for establishing and implementing a training and education program for all the office's employees with regard to their duties and responsibilities, procedural requirements, and applicable law, as appropriate for each employee's position.

(2) The executive director shall employ a general counsel and an administrative assistant to meet immediate staffing needs. The executive director, general counsel, and administrative assistant shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal monthly installments. The executive director, general counsel, and administrative assistant shall be reimbursed for necessary travel expenses, as provided in s. 112.061. Effective December 1, 2001, the executive director shall have the authority to employ such personnel as is necessary to carry out the duties and responsibilities of the office. These personnel shall be paid annual salaries fixed by law, in equal monthly installments, and such personnel shall be reimbursed for necessary travel expenses as provided in s. 112.061.

(3) The office, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction of the Department of Management Services. The office shall be a separate budget entity within the department's legislative budget request.

(4) The Department of Management Services shall provide the necessary office space, furniture, equipment, and supplies necessary for the startup of the office. The department shall further provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The executive director may request the assistance of the Inspector General of the Department of Management Services in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the office.

(5) The office shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures by the office shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the executive director.

(6) The office may charge for copies of records and documents as provided for in s. 119.07.

(7) The office shall maintain and keep open during reasonable business hours an office at which its public records shall be kept. The office may conduct hearings at any place within the state.

(8) The office shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Office of Employee Relations—Seal" and which shall be judicially noticed.

(9) The office is expressly authorized to provide by rule for, and to destroy, obsolete records of the office.

(10) Any hearing held or oral argument heard by the office pursuant to chapter 120 or this chapter shall be open to the public.

(11) Any hearing held by the office under this part shall be conducted in accordance with the provisions of ss. 120.569 and 120.57 by an employee of the office, or a person designated by the executive director, who is a member in good standing of The Florida Bar.

Section 55. (1) Except as otherwise provided, effective January 1, 2002, section 109.240, Florida Statutes, is created to read:

109.240 Voluntary binding arbitration.—

(1) Upon receipt of notice of an adverse agency action, any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations. As used in this section, "adverse agency action" means the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee. Any eligible employee choosing to participate in voluntary binding arbitration must file a written request for arbitration with the office no later than 14 days after the receipt of notice of the adverse agency action.

(2) The arbitration request must be submitted on a form prescribed by the office by rule. The form must be signed by the employee and must include stipulations that:

(a) The employee is voluntarily participating in binding arbitration pursuant to this section.

(b) The arbitration order is final and may not be set aside except for an error in law that is apparent on the record.

(c) The employee will faithfully abide by the arbitration order unless otherwise determined by a court of competent jurisdiction.

(3) Upon receipt of the arbitration request, the office shall provide written notice to the agency against which a request is made regarding the employee request for binding arbitration. The agency must participate in the requested binding arbitration. Binding arbitration shall not be conducted pursuant to this section unless the employee requests it.

(4) The employer must prove just cause for the adverse agency action.

(5)(a) The voluntary binding arbitration shall be heard and determined by an employee panel that consists of three randomly selected career service employees chosen by the office in a manner to ensure a balanced representation of employees from each pay classification. At least one of the employees selected to serve on an employee panel must be a member of the same pay classification as the employee requesting binding arbitration. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the voluntary binding arbitration shall be heard and determined by an employee panel that consists of three career service employees selected as follows:

1. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by that employee.

2. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by the employer.

3. One panel member jointly selected by the other two panel members. If the two panel members do not agree on the jointly selected panel member, within 10 working days after the appeal is submitted, the parties shall jointly request the Federal Mediation and Conciliation Service to furnish a panel of seven names from which each party shall have the option, within 5 days of receipt, of striking three names in alternating fashion. The seventh or remaining name shall serve as the third panel member. The parties shall jointly notify the panel member of his or her selection. Either party may object to all names on the list, provided the objection is made prior to the commencement of the striking process. If this occurs, the objecting party may request the Federal Mediation and Conciliation Service to furnish another list of names. No more than two lists may be requested.

(c) The employee panel shall receive procedural direction and legal advice from the arbitrator appointed by the office.

(d) No employee currently employed or employed within the preceding 6 months by the agency participating in the binding arbitration shall be selected for an employee panel. Employees selected to serve on an employee panel shall hear all evidence submitted by the parties in arbitration and their decision shall be governed by the statutory burden of proof. The office shall reimburse agencies for the daily tasks of each agency employee that serves on an employee panel.

(e) The employee panel shall make all findings of fact and determination of claims. The arbitrator shall draft the arbitration decision for submission to the members of the employee panel for their approval and signatures. Unless otherwise provided in the decision, the decision shall become final 10 days after its execution by the panel.

(6) Any party may be represented by counsel or another appointed representative. The arbitrator and employee panel must complete all arbitration of the employee's claims raised in the request within 60 days after receipt of the claim. The arbitrator may extend the 60-day period upon request of the parties or at the request of one party, after a hearing on that party's request for extension.

(7)(a) The arbitrator selected by the office shall not be an employee within the Career Service System, the Select Management Service, or the Selected Exempt Service. Each selected arbitrator must, at a minimum, meet the following requirements:

1. Completion of a Florida Supreme Court certified circuit or county arbitration program, or other arbitration program approved by the office, in addition to a minimum of 1 day of training in the application of this chapter and chapter 447 and any rules adopted thereunder.

2. Compliance with the Code of Ethics for Arbitrators in Employment Disputes published by the American Arbitration Association and the American Bar Association in 1977, as amended.

3. *Membership in good standing in The Florida Bar.*

(b) *The arbitrator shall have authority to commence and adjourn the arbitration hearing. The arbitrator shall not have authority to hold any person in contempt or to in any way impose sanctions against any person. The arbitrator shall provide assistance to the employee panel on questions of law.*

(c) *The arbitrator shall schedule all arbitration proceedings, including the date, time, and location of such proceedings and provide notice of the arbitration proceeding to the parties at least 5 days in advance of the hearing date, unless otherwise agreed to by the parties. The arbitrator has the discretion to grant a continuance for reasonable cause.*

(d) *The arbitrator may set a preliminary conference and require all parties to file a statement of position prior to the conference. The statement of position may include stipulations of the parties to uncontested facts and applicable law, citations to all governing statutory or regulatory laws that control the controversy, a list of issues of fact and law that are in dispute, any proposals designed to expedite the arbitration process, a list of documents exchanged by the parties and a schedule for the delivery of any additional relevant documents, identification of witnesses expected to be called during the arbitration proceeding accompanied by a short summary of their expected testimony, and any other matters specified by the arbitrator.*

(8) *The duties of the office in administering voluntary binding arbitration pursuant to this section include, but are not limited to, the following:*

(a) *Supporting the arbitration process, including the filing and noticing of all arbitration requests, objections, and other party communications; the selection of the arbitrator; and the design and operation of the employee panel pool.*

(b) *Providing for the selection of the employee panel and arbitrator, which includes:*

1. *Providing selection notice to all parties, the arbitrator, and the employee panel participants.*

2. *Securing a signed disclosure statement from each appointed arbitrator and selected employee describing any circumstances likely to affect impartiality, including any bias or any financial or personal interest with either party or any present or past relationship with the employee seeking binding arbitration, and making these disclosure statements available to the parties. The duty to disclose shall be a continuing obligation throughout the arbitration process.*

3. *Filling vacancies.*

4. *Compensating arbitrators, provided that an arbitrator's fees and expenses shall not exceed \$500 per day for case preparation, prehearing conferences, hearings, and preparation of the arbitration order.*

5. *Making an electronic recording of each arbitration proceeding, including preconference hearings, even when a party chooses to make a stenographic recording of the arbitration proceeding at that party's expense.*

(c) *Publishing the final arbitration order submitted to the office by both parties and the arbitrator.*

(9) *The office shall maintain records of each dispute submitted to voluntary binding arbitration, including the recordings of the arbitration hearings. All records maintained by the office under this section shall be public records and shall be available for inspection upon reasonable notice.*

(10) *The arbitration proceedings shall be governed by the following procedural requirements:*

(a) *A party may object to the arbitrator or any employee on the panel based on the arbitrator's or employee's past or present, direct or indirect, relationship with either party or either party's attorney, whether that relationship was or is financial, professional, or social. The arbitrator*

shall consider any objection to a panel employee, determine its validity, and notify the parties of his or her determination. If the objection is determined valid, the office shall assign another employee from the employee panel pool. The office shall consider any objection to the arbitrator, determine its validity, and notify the parties of its determination. If the objection is determined valid, the office shall appoint another arbitrator.

(b) *The arbitrator has the power to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, excluding contempt. Fees for attendance of witnesses shall be the same as that provided in civil actions in circuit courts of this state.*

(c) *At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths.*

(d) *The arbitrator may continue a hearing on his or her own motion or upon the request of the party for good cause shown. A request for continuance by the employee constitutes a waiver of the 60-day time period for completion of all arbitration proceedings authorized under this section.*

(e) *The employee panel shall render its decision within 10 days after the closing of the hearing. The decision shall be in writing on a form prescribed or adopted by the office. The arbitrator shall send a copy of the decision to the parties by registered mail.*

(f) *Unless otherwise provided, the arbitration decision rendered by the employee panel and any appeals thereof are exempt from the provisions of chapter 120.*

(11)(a) *The office shall establish rules of procedure governing the arbitration process. Such rules shall include, but are not limited to:*

1. *The exchange and filing of information among the parties.*
2. *Discovery.*
3. *Offering evidence.*
4. *Calling and excluding witnesses.*
5. *Submitting evidence by affidavit.*
6. *Attendance of the parties and witnesses.*
7. *The order of proceedings.*

(b) *The office may adopt additional rules necessary to implement this section.*

(12) *Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business, or the county where the arbitration hearing was held, for an order confirming, vacating, or modifying the arbitration decision. Such application must be filed within 30 days after the later of the moving party's receipt of the written decision or the date the decision becomes final. Upon filing such application, the moving party shall mail a copy to the office and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the office. A review of such application to circuit court shall be limited to review on the record and not de novo, of:*

(a) *Any alleged failure of the arbitrator to comply with the applicable rules of procedure or evidence.*

(b) *Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.*

(c) *Whether the decision reaches a result contrary to the United States Constitution or the Florida Constitution.*

If the arbitrator and employee panel fail to state findings or reasons for the stated decision, or the findings and reasons are inadequate, the court

shall search the record to determine whether a basis exists to uphold the decision.

(13) *The office, the arbitrator, and the employee panel shall have absolute immunity from liability arising from the performance of their duties while acting within the scope of their appointed function in any arbitration conducted under this section.*

(2) For purposes of rulemaking by the Office of Employee Relations, subsection (11) of s. 109.240, Florida Statutes, as created by this section, shall take effect July 1, 2001.

Section 56. Section 110.401, Florida Statutes, is renumbered as section 109.401, Florida Statutes, and amended to read:

~~109.401~~ ~~110.401~~ Declaration of policy.—~~It is the intent of This part creates to create~~ a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior Management Service employees. ~~Accordingly To this end,~~ training and management-development programs are regarded as a major administrative function within agencies.

Section 57. Section 110.402, Florida Statutes, is renumbered as section 109.402, Florida Statutes, and subsection (2) of said section is amended to read:

~~109.402~~ ~~110.402~~ Senior Management Service; creation, coverage.—

(2) The Senior Management Service shall be limited to those positions which are exempt from the Career Service System by s. ~~109.205(2)~~ ~~110.205(2)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Senior Management Service.

Section 58. Section 110.403, Florida Statutes, is renumbered as section 109.403, Florida Statutes, and amended to read:

~~109.403~~ ~~110.403~~ Powers and duties of the Department of Management Services.—

(1) ~~In order to implement the purposes of this part,~~ The department of ~~Management Services,~~ after approval by the Administration Commission, shall adopt and amend rules ~~that provide~~ providing for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

(e) A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

(f) Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the department of ~~Management Services~~ to determine agency compliance with the provisions of this part and ~~with the department's rules of the Department of Management Services.~~

(g) Other procedures relating to personnel administration to carry out the purposes of this part.

(h) A program of affirmative and positive action that will ensure full utilization of ~~the rich diversity of Florida's human resources~~ ~~women and minorities~~ in Senior Management Service positions.

(2) The powers, duties, and functions of the department of ~~Management Services~~ shall include responsibility for the policy administration of the Senior Management Service.

(3) The department of ~~Management Services~~ shall have the following additional responsibilities:

(a) To establish and administer a professional development program which shall provide for the systematic development of managerial, executive, or administrative skills.

(b) To promote public understanding of the purposes, policies, and programs of the Senior Management Service.

(c) To approve contracts of employing agencies with persons engaged in the business of conducting multistate executive searches to identify qualified and available applicants for Senior Management Service positions for which the department of ~~Management Services~~ sets salaries in accordance with the classification and pay plan. Such contracts may be entered by the agency head only after completion of an unsuccessful in-house search. The department of ~~Management Services~~ shall establish, by rule, the minimum qualifications for persons desiring to conduct executive searches, including a requirement for the use of contingency contracts. ~~These Such~~ rules shall ensure that such persons possess the requisite capacities to perform effectively at competitive industry prices. ~~These The Department of Management Services shall make the rules shall also required pursuant to this paragraph in such a manner as to~~ comply with state and federal laws and regulations governing equal opportunity employment.

(4) All policies and procedures adopted by the department of ~~Management Services~~ regarding the Senior Management Service shall comply with all federal regulations necessary to permit the state agencies to be eligible to receive federal funds.

(5) The department of ~~Management Services~~ shall adopt, by rule, procedures for Senior Management Service employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with any individual, partnership, association, corporation, utility, or other organization, whether public or private, doing business with or subject to regulation by the agency.

Section 59. Effective July 1, 2001, paragraph (a) of subsection (1) of section 109.403, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.403 Powers and duties of the Department of Management Services.—

(1) The department, after approval by the Administration Commission, shall adopt and amend rules which provide for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed ~~1.5~~ ~~0.5~~ percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report

that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

Section 60. *Section 110.405, Florida Statutes, is renumbered as section 109.405, Florida Statutes.*

Section 61. Section 110.406, Florida Statutes, is renumbered as section 109.406, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of said section are amended to read:

109.406 ~~110.406~~ Senior Management Service; data collection.—

(2) The data required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. *109.403* ~~110.403~~.

(3) To assist in the preparation of the data required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. *109.405* ~~110.405~~.

Section 62. *Section 110.501, Florida Statutes, is renumbered as section 109.501, Florida Statutes.*

Section 63. Section 110.502, Florida Statutes, is renumbered as section 109.502, Florida Statutes, and subsections (2) and (3) of said section are amended to read:

109.502 ~~110.502~~ Scope of act; status of volunteers.—

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. *109.504* ~~110.504~~. However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. *109.504* ~~110.504~~, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 64. *Sections 110.503 and 110.504, Florida Statutes, are renumbered as sections 109.503 and 109.504, Florida Statutes, respectively.*

Section 65. Section 110.601, Florida Statutes, is renumbered as section 109.601, Florida Statutes, and amended to read:

109.601 ~~110.601~~ Declaration of policy.—~~It is the purpose of~~ This part ~~creates to create~~ a system of personnel management ~~the purpose of which is to deliver which ensures to the state the delivery of~~ high-quality performance ~~by those employees~~ in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

Section 66. Section 110.602, Florida Statutes, is renumbered as section 109.602, Florida Statutes, and amended to read:

109.602 ~~110.602~~ Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2)* and (5) ~~110.205(2) and (5)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.

Section 67. Effective July 1, 2001, section 109.602, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.602 Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2)* and (5) and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. ~~In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.~~

Section 68. *Sections 110.603 and 110.604, Florida Statutes, are renumbered as sections 109.603 and 109.604, Florida Statutes, respectively.*

Section 69. Section 110.605, Florida Statutes, is renumbered as section 109.605, Florida Statutes, and subsection (1) of said section is amended to read:

109.605 ~~110.605~~ Powers and duties; personnel rules, records, reports, and performance appraisal.—

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

~~(b)—It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.~~

~~(b)(e)~~ The department shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement. Each employing agency shall develop a performance appraisal system for all other employees and positions in the Selected Exempt System. Such agency

system shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c)(d) *The employing agency must maintain, on a current basis, all records and reports required by applicable rules.* The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.

(d)(e) The department shall develop a program of affirmative and positive actions that will ensure full utilization of *the rich diversity of Florida's human resources women and minorities* in Selected Exempt Service positions.

Section 70. Section 110.606, Florida Statutes, is renumbered as section 109.606, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.606 ~~110.606~~ Selected Exempt Service; data collection.—

(2) The data required by this section shall include:

(c) In addition, as needed, ~~the data shall include:~~

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

Section 71. (1) *Sections 109.105 through 109.191, Florida Statutes, are designated as part I of chapter 109, Florida Statutes, to be entitled "General State Employment Provisions."*

(2) *Sections 109.201 through 109.240, Florida Statutes, are designated as part II of chapter 109, Florida Statutes, to be entitled "Career Service System."*

(3) *Sections 109.401 through 109.406, Florida Statutes, are designated as part III of chapter 109, Florida Statutes, to be entitled "Senior Management Service System."*

(4) *Sections 109.501 through 109.504, Florida Statutes, are designated as part IV of chapter 109, Florida Statutes, to be entitled "Volunteers."*

(5) *Sections 109.601 through 109.606, Florida Statutes, are designated as part V of chapter 109, Florida Statutes, to be entitled "Selected Exempt Service System."*

Section 72. Paragraph (c) of subsection (2) and paragraph (d) of subsection (3) of section 20.171, Florida Statutes, are amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter 109 ~~110~~, may be created without specific legislative authority.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4).

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Section 73. Subsection (3) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(3) Unless otherwise provided by law, the Secretary of Community Affairs shall appoint the directors or executive directors of any

commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. ~~109.205~~ ~~110.205~~. The appointment or termination by the secretary will be done with the advice and consent of the commission or council; and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

Section 74. Subsection (6) of section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(6) Notwithstanding the provisions of s. ~~109.123~~ ~~110.123~~, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 75. Paragraph (d) of subsection (1), paragraph (h) of subsection (2), paragraphs (d), (f), (h), and (i) of subsection (3), paragraphs (c) and (d) of subsection (4), and subsection (5) of section 20.23, Florida Statutes, are amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1)

(d) Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter ~~109~~ ~~110~~ and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter ~~109~~ ~~110~~, the Governor shall approve said salary.

(2)

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter ~~109~~ ~~110~~ and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(3)

(d)1. Policy, program, or operations offices shall be established within the central office for the purposes of:

- a. Developing policy and procedures and monitoring performance to ensure compliance with these policies and procedures;
- b. Performing statewide activities which it is more cost-effective to perform in a central location;
- c. Assessing and ensuring the accuracy of information within the department's financial management information systems; and
- d. Performing other activities of a statewide nature.

2. The following offices are established and shall be headed by a manager, each of whom shall be appointed by and serve at the pleasure of the secretary. The positions shall be classified at a level equal to a division director:

- a. The Office of Administration;
- b. The Office of Policy Planning;

- c. The Office of Design;
- d. The Office of Highway Operations;
- e. The Office of Right-of-Way;
- f. The Office of Toll Operations;
- g. The Office of Information Systems; and
- h. The Office of Motor Carrier Compliance.

3. Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter ~~109~~ ~~110~~. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

4. During the construction of a major transportation improvement project or as determined by the district secretary, the department may provide assistance to a business entity significantly impacted by the project if the entity is a for-profit entity that has been in business for 3 years prior to the beginning of construction and has direct or shared access to the transportation project being constructed. The assistance program shall be in the form of additional guarantees to assist the impacted business entity in receiving loans pursuant to Title 13 C.F.R. part 120. However, in no instance shall the combined guarantees be greater than 90 percent of the loan. The department shall adopt rules to implement this subparagraph.

(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter ~~109~~ ~~110~~.

2. The functions of the Office of Management and Budget include, but are not limited to:

- a. Preparation of the work program;
- b. Preparation of the departmental budget; and
- c. Coordination of related policies and procedures.

3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter ~~109~~ ~~110~~. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical

aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.

2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:

a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.

b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.

(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter 109 ~~110~~.

2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department;

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;

c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;

d. The amount or portion of each such apportionment against general contractual and other liabilities then created;

e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;

f. The expense and operating costs of the various activities of the department;

g. The receipts accruing to the department and the distribution thereof;

h. The assets, investments, and liabilities of the department; and

i. The cash requirements of the department for a 36-month period.

4. The comptroller shall maintain a separate account for each fund administered by the department.

5. The comptroller shall perform such other related duties as designated by the department.

(4)

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 109 ~~110~~.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter 109 ~~110~~.

(5) Notwithstanding the provisions of s. 109.205 ~~110.205~~, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 109.205(2)(i) ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. 109.205(2)(l) ~~110.205(2)(l)~~.

Section 76. Subsection (2) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff,
2. Office of General Counsel,
3. Office of Inspector General,
4. Office of External Affairs,
5. Office of Legislative and Government Affairs, and
6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service in accordance with s. 109.205(2)(i) ~~110.205(2)(i)~~.

Section 77. Paragraph (b) of subsection (3) and paragraph (e) of subsection (6) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter 109 ~~110~~ and are included in the Senior Management Service.

(6) FLORIDA CORRECTIONS COMMISSION.—

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 109 ~~110~~ and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

Section 78. Paragraph (d) of subsection (20) of section 24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department shall:

(20) Employ division directors and other staff as may be necessary to carry out the provisions of this act; however:

(d) The department shall establish and maintain a personnel program for its employees, including a personnel classification and pay plan which may provide any or all of the benefits provided in the Senior Management Service or Selected Exempt Service. Each officer or employee of the department shall be a member of the Florida Retirement System. The retirement class of each officer or employee shall be the same as other persons performing comparable functions for other agencies. Employees of the department shall serve at the pleasure of the secretary and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the secretary. Such personnel actions are exempt from the provisions of chapter 120. All employees of the department are exempt from the Career Service System provided in chapter 109 ~~110~~ and, notwithstanding the provisions of s. 109.205(5) ~~110.205(5)~~, are not included in either the Senior Management Service or the Selected

Exempt Service. However, all employees of the department are subject to all standards of conduct adopted by rule for career service and senior management employees pursuant to chapter 109 ~~110~~. In the event of a conflict between standards of conduct applicable to employees of the Department of the Lottery the more restrictive standard shall apply. Interpretations as to the more restrictive standard may be provided by the Commission on Ethics upon request of an advisory opinion pursuant to s. 112.322(3)(a), for purposes of this subsection the opinion shall be considered final action.

Section 79. Paragraph (d) of subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(d) Section 109.131 ~~110.131~~, relating to other personal services.

Section 80. Subsection (1) of section 68.087, Florida Statutes, is amended to read:

68.087 Exemptions to civil actions.—

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term “senior executive branch official” means any person employed in the executive branch of government holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~.

Section 81. Subsection (3) of section 104.31, Florida Statutes, is amended to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(3) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee’s off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 109.233 ~~110.233~~.

Section 82. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, “employee of the department” means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 83. Subsection (4) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter 109 ~~110~~. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter 109 ~~110~~, except that the commission shall have complete authority for setting the executive director's salary. Attorneys employed by the commission shall be subject to part V of chapter 109 ~~110~~.

Section 84. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter 109 ~~110~~ and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109 ~~110~~, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 85. Section 112.0805, Florida Statutes, is amended to read:

112.0805 Employer notice of insurance eligibility to employees who retire.—Any employer who provides insurance coverage under s. 109.123 ~~110.123~~ or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. 109.123 ~~110.123~~ and 112.0801, or the insurance coverage as provided by this law.

Section 86. Paragraph (a) of subsection (9) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~ or any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~ or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

Section 87. Paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, is amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the

information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.
2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.
3. The benefit to state government to have a final report on the disclosed information.
4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter 109 110.
5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.
6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 88. Subsection (2) of section 112.363, Florida Statutes, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

Section 89. Effective July 1, 2001, paragraph (a) of subsection (2) of section 112.363, Florida Statutes, as amended by chapter 2000-169, Laws of Florida, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is

eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. 109.1232 ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments.

Section 90. Subsection (38) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. 109.203(24) ~~110.203(24)~~ or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(2)(a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

Section 91. Paragraph (b) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(3) PROCEDURE FOR DESIGNATING.—

(b)1. Applying the criteria set forth in this section, the Department of Management Services shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter 109 ~~110~~ entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. When a class is not specified by the department as provided in subparagraph 1., the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

Section 92. Paragraph (a) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the “Senior Management Service Class,” which shall become effective February 1, 1987.

(1)(a) Participation in the Senior Management Service Class shall be limited to and compulsory for any member of the Florida Retirement System who holds a position in the Senior Management Service of the State of Florida, established by part III of chapter 109 ~~110~~, unless such member elects, within the time specified herein, to participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 93. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. 109.205(2)(d) ~~110.205(2)(d)~~.

3. The Chancellor and the university presidents.

Section 94. Subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. 109.116 ~~110.116~~ and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of the Department of Management Services.

(b) Recruitment and examination.

(c) Time reporting.

(d) Collective bargaining.

Section 95. Subsection (2) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(2) For purposes of this chapter, terms related to personnel affairs of the state shall be defined as set forth in s. 109.203 ~~110.203~~.

Section 96. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter 109 ~~110~~.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the President of the Senate and the Speaker of the House of Representatives, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 97. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. 109.122 ~~110.122~~. Educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 98. Paragraph (c) of subsection (1) of section 235.217, Florida Statutes, is amended to read:

235.217 SMART (Soundly Made, Accountable, Reasonable, and Thrifty) Schools Clearinghouse.—

(1)

(c) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department, except as otherwise provided in chapters 109 ~~110~~, 255, and 287 for agencies of the executive branch.

Section 99. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules relating to the appointment, employment, and removal of personnel which delegate its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. 109.116,

109.123, 109.1232, 109.1234, and 109.1238 ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121, 122, and 238. The board shall adopt rules to provide for a coordinated, efficient systemwide program and shall delegate to the universities authority for implementing the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. The salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 100. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes, is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. 109.1245 ~~110.1245~~, the Board of Regents and each university shall promulgate rules for an employee recognition program which provides for the following components:

1. A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. No cash award under the superior accomplishment component of the program shall exceed \$1,000, excluding applicable taxes.

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed \$50, excluding applicable taxes.

Section 101. Section 240.507, Florida Statutes, is amended to read:

240.507 Extension personnel; federal health insurance programs notwithstanding the provisions of s. 109.123 ~~110.123~~.—The Institute of Food and Agricultural Sciences at the University of Florida is authorized to pay the employer's share of premiums to the Federal Health Benefits Insurance Program from its appropriated budget for any cooperative extension employee of the institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Section 102. Subsection (9) of section 241.002, Florida Statutes, is amended to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter 109 ~~110~~ and is included in the Senior Management Service in accordance with s. 109.205 ~~110.205~~.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 103. Paragraph (b) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(b) Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. 109.205(2)(d) ~~110.205(2)(d)~~ and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter 109 ~~110~~, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

Section 104. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. 109.501 ~~110.501~~, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

Section 105. Paragraph (a) of subsection (4) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services, Florida Capitol Police.—The Department of Management Services, Florida Capitol Police, has the following powers and duties:

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter 109 ~~110~~, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

Section 106. Section 287.175, Florida Statutes, is amended to read:

287.175 Penalties.—A violation of this part or a rule adopted hereunder, pursuant to applicable constitutional and statutory procedures, constitutes misuse of public position as defined in s. 112.313(6), and is punishable as provided in s. 112.317. The Comptroller shall report incidents of suspected misuse to the Commission on Ethics, and the commission shall investigate possible violations of this part or rules adopted hereunder when reported by the Comptroller, notwithstanding the provisions of s. 112.324. Any violation of this part or a rule adopted hereunder shall be presumed to have been committed with wrongful intent, but such presumption is rebuttable. Nothing in this section is intended to deny rights provided to career service employees by s. 109.227 ~~110.227~~.

Section 107. Subsection (2) of section 288.708, Florida Statutes, is amended to read:

288.708 Executive director; employees.—

(2) The executive director and all employees of the board shall be exempt from the provisions of part II of chapter 109 ~~110~~, and the executive director shall be subject to the provisions of part III ~~IV~~ of chapter 109 ~~110~~.

Section 108. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. 109.205(2) ~~110.205(2)~~; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included.

Section 109. Subsection (3) and paragraph (b) of subsection (4) of section 296.04, Florida Statutes, are amended to read:

296.04 Administrator; duties and qualifications; responsibilities.—

(3) The administrator shall be a resident of the state at the time of entering into employment in the position. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall afford applicants veterans' preference in appointment in accordance with ss. 295.07 and 295.085. In addition, the administrator must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in a health care facility,

or any equivalent combination of experience, training, and education totaling 7 years in work relating to administration of a health care facility.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 110. Subsection (1) and paragraph (b) of subsection (4) of section 296.34, Florida Statutes, are amended to read:

296.34 Administrator; qualifications, duties, and responsibilities.—

(1) The director shall appoint an administrator of the home who shall be the chief executive of the home. The position shall be assigned to the Selected Exempt Service under part V of chapter 109 ~~110~~. The director shall give preference in appointment as provided in ss. 295.07 and 295.085 to applicants for the position of administrator.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter 109 ~~110~~.

Section 111. Subsection (5) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. 109.112 ~~110-112~~.

Section 112. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter 109 ~~110~~ and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 113. Subsection (4) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(4) The authority shall institute procedures to ensure that jobs created as a result of state funding pursuant to this section shall be subject to equal opportunity hiring practices as provided for in s. 109.112 ~~110-112~~.

Section 114. Paragraph (e) of subsection (3) of section 381.85, Florida Statutes, is amended to read:

381.85 Biomedical and social research.—

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter 109 ~~110~~ relating to the Career Service System.

Section 115. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. 109.1127(3) ~~110-1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 116. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. The agency shall verify

through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter *109 110*.

Section 117. Subsection (3) of section 400.953, Florida Statutes, is amended to read:

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(3) Proof of compliance with the screening requirements of s. *109.1127 110.1127*, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

Section 118. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3) 110.1127(3)*, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 119. Subsection (4) of section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(4) Notwithstanding the provisions of chapter *109 110*, the departments may grant special pay increases to management fellows upon successful completion of the program.

Section 120. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. *109.205(2)(h) 110.205(2)(h)*, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career exempt employees.

Section 121. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3) 110.1127(3)*, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 122. Paragraph (o) of subsection (1) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(o) “Safety-sensitive position” means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. *109.1127 110.1127*; or a position in which a momentary lapse in attention could result in injury or death to another person.

Section 123. Paragraph (a) of subsection (3) of section 440.4416, Florida Statutes, is amended to read:

440.4416 Workers’ Compensation Oversight Board.—

(3) EXECUTIVE DIRECTOR; EXPENSES.—

(a) The board shall appoint an executive director to direct and supervise the administrative affairs and general management of the board who shall be subject to the provisions of part V IV of chapter *109 110*. The executive director may employ persons and obtain technical assistance as authorized by the board and shall attend all meetings of the board. Board employees shall be exempt from part II of chapter *109 110*.

Section 124. Subsection (4) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports; proceedings; state-federal cooperation.—

(4) PERSONNEL.—Subject to chapter *109 110* and the other provisions of this chapter, the division is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such employees, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this chapter. The division may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this chapter and may in its discretion bond any person handling moneys or signing checks hereunder; the cost of such bonds shall be paid from the Employment Security Administration Trust Fund.

Section 125. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section 109.124 ~~110.124~~, relating to termination or transfer of State Career Service System employees aged 65 or older.

Section 126. Paragraph (a) of subsection (2) of section 456.048, Florida Statutes, is amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. 109.501(1) ~~110.501(1)~~.

Section 127. Subsection (3) of section 471.038, Florida Statutes, is amended to read:

471.038 Florida Engineers Management Corporation.—

(3) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455 and this chapter. The management corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter 109 ~~110~~ or chapter 112, except that the board of directors and the staff are subject to the provisions of s. 112.061. The provisions of s. 768.28 apply to the management corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The management corporation shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455, this chapter, and the contract required by this section.

(c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the board, and in accordance with the contract required by this section.

(d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. All initial appointments shall expire on October 31, 2000. Current members may be appointed to one additional term that complies with the provisions of this paragraph. Two members shall be appointed for 2 years, three members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board, and the vacancy shall be filled by a new appointment.

(g) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.

(h) Use a portion of the interest derived from the management corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.

(i) Operate under an annual written contract with the department which is approved by the board. The contract must provide for, but is not limited to:

1. Approval of the articles of incorporation and bylaws of the management corporation by the department and the board.

2. Submission by the management corporation of an annual budget that complies with board rules for approval by the board and the department.

3. Annual certification by the board and the department that the management corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes. The contract must also provide for methods and mechanisms to resolve any situation in which the certification process determines noncompliance.

4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the management corporation to ensure compliance with the contract and the provisions of chapter 455 and this chapter and to act as a liaison for the department, the board, and the management corporation to ensure the effective operation of the management corporation.

5. Funding of the management corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.

6. The reversion to the board, or the state if the board ceases to exist, of moneys, records, data, and property held in trust by the management corporation for the benefit of the board, if the management corporation is no longer approved to operate for the board or the board ceases to exist. All records and data in a computerized database shall be returned to the department in a form that is compatible with the computerized database of the department.

7. The securing and maintaining by the management corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the management corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The management corporation must provide proof of insurance to the department. The department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the management corporation. Violation of this subparagraph shall be grounds for terminating the contract.

8. Payment by the management corporation, out of its allocated budget, to the department of all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.

9. Payment by the management corporation, out of its allocated budget, to the department of all costs incurred by the management corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

10. Payment by the management corporation, out of its allocated budget, to the department of all costs associated with the contract administrator of the department, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(j) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule

of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.

(k) Provide for persons charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.

(l) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

(m) Develop, with the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

Section 128. Subsection (3) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. 109.227 ~~110.227~~.

Section 129. Effective July 1, 2001, subsection (3) of section 509.036, Florida Statutes, as amended by this act, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for *reasonable* cause as set forth in s. 109.227.

Section 130. Subsection (1) of section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. 109.205 ~~110.205~~ in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation relating to any matter over which the department has jurisdiction or which occurs on property owned, managed, or occupied by the department. Those matters include laws relating to:

(a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.

(b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.

(c) Trespass, littering, forests, forest fires, and open burning.

(d) Damage to or theft of forest products.

(e) Enforcement of a marketing order.

(f) Protection of consumers.

(g) Civil traffic offenses provided for in chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over

which the department has jurisdiction or committed on property owned, managed, or occupied by the department.

(h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.

(i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.

(j) Any crime incidental to or related to paragraphs (a)-(i).

Section 131. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt under s. 109.205 ~~110.205~~ in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 132. Subsection (6) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter 109 ~~110~~. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.

Section 133. Subsection (4) of section 627.0623, Florida Statutes, is amended to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section, "employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 134. Paragraph (h) of subsection (4) of section 627.6488, Florida Statutes, is amended to read:

627.6488 Florida Comprehensive Health Association.—

(4) The association shall:

(h) Contract with preferred provider organizations and health maintenance organizations giving due consideration to the preferred provider organizations and health maintenance organizations which have contracted with the state group health insurance program pursuant to s. 109.123 ~~110.123~~. If cost-effective and available in the county where the policyholder resides, the board, upon application or renewal of a policy, shall place a high-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who shall determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. If cost-effective and available in the county where

the policyholder resides, the board, with the consent of the policyholder, may place a low-risk or medium-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who may determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. Prior to and during the implementation of case management, the plan case manager shall obtain input from the policyholder, parent, or guardian.

Section 135. Paragraph (a) of subsection (1) of section 627.649, Florida Statutes, is amended to read:

627.649 Administrator.—

(1) The board shall select an administrator, through a competitive bidding process, to administer the plan. The board shall evaluate bids submitted under this subsection based on criteria established by the board, which criteria shall include:

(a) The administrator's proven ability to handle large group accident and health insurance, and due consideration shall be given to any administrator who has acted as a third-party administrator for the state group health insurance program pursuant to s. 109.123 ~~110.123~~.

Section 136. Paragraph (a) of subsection (2) and subsection (3) of section 627.6498, Florida Statutes, are amended to read:

627.6498 Minimum benefits coverage; exclusions; premiums; deductibles.—

(2) BENEFITS.—

(a) The plan shall offer major medical expense coverage similar to that provided by the state group health insurance program as defined in s. 109.123 ~~110.123~~ except as specified in subsection (3) to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to limits on the deductible and coinsurance payments authorized under subsection (4), up to a lifetime limit of \$500,000 per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(3) COVERED EXPENSES.—The coverage to be issued by the association shall be patterned after the state group health insurance program as defined in s. 109.123 ~~110.123~~, including its benefits, exclusions, and other limitations, except as otherwise provided in this act. The plan may cover the cost of experimental drugs which have been approved for use by the Food and Drug Administration on an experimental basis if the cost is less than the usual and customary treatment. Such coverage shall only apply to those insureds who are in the case management system upon the approval of the insured, the case manager, and the board.

Section 137. Subsection (4) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(4) The provisions of this section shall not apply to a multiple-employer welfare arrangement as defined in s. 624.437(1) and in the State Health Plan as provided in s. 109.123 ~~110.123~~.

Section 138. Subsection (3) of section 655.019, Florida Statutes, is amended to read:

655.019 Campaign contributions; limitations.—

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department"

means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. 109.402 ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. 109.602 ~~110.602~~; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 139. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. ~~109.1127(3)~~ ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 140. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. ~~109.1127(3)~~ ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 141. Subsection (4) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(4) No individual filling a position in the Senior Management Service as defined in s. ~~109.402~~ ~~110.402~~ is eligible to participate in the salary incentive program authorized by this section.

Section 142. Paragraph (c) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. ~~109.227~~ ~~110.227~~ for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 143. Subsection (2) of section 945.043, Florida Statutes, is amended to read:

945.043 Department-operated day care services.—

(2) The department is exempt from the requirements of s. ~~109.151~~ ~~110.151~~.

Section 144. Subsection (6) of section 957.03, Florida Statutes, is amended to read:

957.03 Correctional Privatization Commission.—

(6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.—The commission shall be a separate budget entity, and the executive director shall be its chief administrative officer. The Department of Management Services shall provide administrative support and service to the commission to the extent requested by the executive director. The commission and its staff are not subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, and budgetary matters, except to the extent as provided in chapters ~~109~~ ~~110~~, 216, 255, 282, and 287 for agencies of the executive branch. The executive director may designate a maximum of two policymaking or managerial positions as being exempt from the Career Service System. These two positions may be provided for as members of the Senior Management Service.

Section 145. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 146. Paragraph (e) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 109.1127 ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407.

Section 147. Paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, is amended to read:

985.4045 Sexual misconduct prohibited; reporting required; penalties.—

(1)

(b) Notwithstanding prosecution, any violation of this subsection, as determined by the Public Employees Relations Commission, constitutes sufficient cause under s. 109.227 ~~110.227~~ for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the juvenile justice system.

Section 148. Paragraph (c) of subsection (1) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)

(c)1. The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

3.a. A state agency may be eligible for an efficiency award based on changes to authorized positions. To be eligible, the agency must submit an application to the Legislative Budgeting Commission identifying the modification to an approved program resulting in efficiency and cost savings.

b. The amount of the efficiency award shall be determined by the Legislative Budgeting Commission but shall not exceed the actual savings of currently appropriated funds. In determining the amount of the award, the Legislative Budgeting Commission shall consider the actual savings for the current year and the annualized savings. The efficiency award may be used for nonrecurring purposes only.

c. Each state agency allowed to retain salary appropriations pursuant to this subparagraph shall submit in its next legislative budget request a schedule showing how the agency utilized such funds.

Section 149. Effective January 1, 2002, section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—~~It is declared that~~ The public policy of this the state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. ~~It is the intent of the Legislature that~~ Nothing herein shall be construed either to encourage or discourage organization of public employees. ~~This state's public policy is~~ ~~These policies are~~ best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 150. Effective January 1, 2002, subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) ~~There is hereby created within the Department of Labor and Employment Security~~ The Public Employees Relations Commission, hereinafter referred to as the "commission," ~~The commission~~ shall be composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of *Management Services Labor and Employment Security*.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of *Management Services Labor and Employment Security*.

Section 151. *Effective January 1, 2002, subsections (8), (9), (10), and (11) of section 447.207, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 159, line 7, through page 162, line 11, of the amendment remove: all of said lines

and insert in lieu thereof: renumbering s. 110.227, F.S.; revising certain responsibilities of agency heads; providing that, except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area with regard to employees other than law enforcement or correctional officers or firefighters; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; creating s. 109.237, F.S.; creating an Office of Employee Relations within the Department of Management Services; providing for an executive director, a general counsel, and an administrative assistant, and their qualifications and duties; providing for additional personnel; providing duties of the department; providing powers and duties of the office; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employer's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the office; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit court for an order confirming, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, 110.605, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 216.262, F.S.; authorizing efficiency awards to state agencies based on changes to authorized positions and providing requirements with respect thereto; amending s. 447.201, F.S., relating to the statement of public policy regarding public employees; amending s. 447.205, F.S., relating to creation of the Public Employees Relations Commission; repealing s. 447.207(8), (9), (10), and (11), F.S., which provide for appeals to the commission with regard to adverse agency actions against career service employees; repealing s. 447.208, F.S., which

Rep. Ausley moved the adoption of the amendment to the substitute amendment, which failed of adoption. The vote was:

Session Vote Sequence: 53

Yeas—43

Ausley	Gottlieb	Lee	Seiler
Bendross-Mindingall	Greenstein	Lerner	Siplin
Betancourt	Harper	Machek	Slosberg
Brutus	Henriquez	McGriff	Smith
Bucher	Heyman	Meadows	Sobel
Bullard	Holloway	Peterman	Stansel
Cusack	Jennings	Rich	Weissman
Fields	Joyner	Richardson	Wiles
Frankel	Justice	Ritter	Wilson
Gannon	Kendrick	Romeo	Wishner
Gelber	Kosmas	Ryan	

Nays—75

The Chair	Brummer	Green	Maygarden
Allen	Byrd	Haridopolos	Mealor
Andrews	Cantens	Harrell	Melvin
Argenziano	Carassas	Harrington	Miller
Arza	Clarke	Hart	Murman
Attkisson	Crow	Hogan	Needelman
Atwater	Davis	Johnson	Negron
Baker	Detert	Jordan	Paul
Ball	Diaz de la Portilla	Kallinger	Pickens
Barreiro	Diaz-Balart	Kilmer	Prieguez
Baxley	Dockery	Kottkamp	Ross
Bean	Farkas	Kravitz	Rubio
Bennett	Fasano	Kyle	Russell
Bense	Fiorentino	Lacasa	Simmons
Benson	Flanagan	Littlefield	Sorensen
Berfield	Garcia	Lynn	Spratt
Bilirakis	Gardiner	Mack	Trovillion
Bowen	Gibson	Mahon	Wallace
Brown	Goodlette	Mayfield	

Votes after roll call:

Nays—Alexander, Waters

THE SPEAKER PRO TEMPORE IN THE CHAIR

THE SPEAKER IN THE CHAIR

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted. The vote was:

Session Vote Sequence: 54

Yeas—76

The Chair	Brummer	Green	Maygarden
Allen	Byrd	Haridopolos	Mealor
Andrews	Cantens	Harrell	Melvin
Argenziano	Carassas	Harrington	Miller
Arza	Clarke	Hart	Murman
Attkisson	Crow	Hogan	Needelman
Atwater	Davis	Johnson	Negron
Baker	Detert	Jordan	Paul
Ball	Diaz de la Portilla	Kallinger	Pickens
Barreiro	Diaz-Balart	Kilmer	Prieguez
Baxley	Dockery	Kottkamp	Ross
Bean	Farkas	Kravitz	Rubio
Bennett	Fasano	Kyle	Russell
Bense	Fiorentino	Lacasa	Simmons
Benson	Flanagan	Littlefield	Sorensen
Berfield	Garcia	Lynn	Spratt
Bilirakis	Gardiner	Mack	Trovillion
Bowen	Gibson	Mahon	Wallace
Brown	Goodlette	Mayfield	Waters

Nays—43

Ausley	Gottlieb	Lee	Seiler
Bendross-Mindingall	Greenstein	Lerner	Siplin
Betancourt	Harper	Machek	Slosberg
Brutus	Henriquez	McGriff	Smith
Bucher	Heyman	Meadows	Sobel
Bullard	Holloway	Peterman	Stansel
Cusack	Jennings	Rich	Weissman
Fields	Joyner	Richardson	Wiles
Frankel	Justice	Ritter	Wilson
Gannon	Kendrick	Romeo	Wishner
Gelber	Kosmas	Ryan	

Votes after roll call:

Yeas—Alexander

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

CS/HB 409—A bill to be entitled An act relating to educator professional liability insurance; creating s. 231.800, F.S.; providing legislative intent; requiring educator professional liability insurance coverage for all full-time instructional personnel; providing for specific appropriations in the General Appropriations Act; extending educator professional liability insurance coverage at cost to all part-time instructional personnel and administrative personnel; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 501—A bill to be entitled An act relating to abolishment of boards, commissions, councils, and other entities; repealing s. 24.106, F.S., to abolish the State Lottery Commission; repealing s. 24.103(3), F.S., to delete the definition of “commission,” to conform; amending ss. 24.105, 24.108, and 24.123, F.S.; deleting references to the State Lottery Commission, to conform; repealing s. 228.054, F.S., to abolish the Joint Developmental Research School Planning, Articulation, and Evaluation Committee; amending s. 228.053, F.S.; transferring to the Commissioner of Education duties of the Joint Developmental Research School Planning, Articulation, and Evaluation Committee relating to the securing of waivers to the Florida School Code, to conform; amending s. 228.2001, F.S.; deleting provisions authorizing the Task Force on Gender Equity in Education; amending s. 230.2305, F.S., and repealing subsection (7), relating to district interagency coordinating councils on early childhood services, to abolish the councils and delete provisions relating to their duties; transferring to the Department of Education duties of the district interagency coordinating councils, to conform; amending ss. 230.2303, 230.2306, 402.3015, 409.178, and 411.01, F.S.; deleting provisions relating to duties of the interagency coordinating councils on early childhood services, to conform; repealing s. 232.2466(3), F.S., to delete authority for the college-ready diploma program task forces; repealing s. 255.565, F.S., to abolish the Asbestos Oversight Program Team; amending ss. 255.553, 255.556, and 255.563, F.S.; removing references to the Asbestos Oversight Program Team, to conform; repealing s. 258.155, F.S., to abolish the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council and delete provisions relating to its duties; repealing s. 272.12(2)-(6), F.S., to abolish the Capitol Center Planning Commission and delete provisions relating to its duties; amending ss. 272.121 and 295.184, F.S.; removing and revising references to the Capitol Center Planning Commission, to conform; transferring duties of the Capitol Center Planning Commission to the City of Tallahassee and the Department of Management Services; providing for current owners’ permits within the Capitol Center Planning District to continue; repealing s. 282.3095, F.S., to abolish the Task Force on Privacy and Technology created by the State Technology Office; repealing s. 285.19, F.S., to abolish the Creek Indian Council; repealing s. 286.30, F.S., to abolish the Commission on Government Accountability to the People; amending s. 216.235, F.S.; providing for appointment of a member to the State Innovation Committee by the Governor in lieu of the Commission on Government Accountability to the People, to conform; repealing s. 391.222, F.S., to abolish the Cardiac Advisory Council; amending s. 402.40, F.S.; deleting an obsolete

reference to the Child Welfare Training Council; repealing s. 404.056(2), F.S., to abolish the Florida Coordinating Council on Radon Protection; amending s. 440.49, F.S., and repealing subsections (13) and (14), relating to the Special Disability Trust Fund Privatization Commission and the Florida Special Disability Trust Fund Financing Corporation, to abolish the commission and corporation and delete or revise references thereto; abolishing the advisory committee on conservation of the fund; repealing s. 442.105, F.S., to abolish the Toxic Substances Advisory Council; repealing ss. 499.005(26) and 499.05(1)(c), F.S., to delete obsolete references to the Florida Drug Technical Review Panel and the investigational drug program; amending s. 499.015, F.S.; deleting an obsolete reference to the investigational drug program; repealing s. 548.045, F.S., to abolish the Medical Advisory Council under the Florida State Boxing Commission; amending s. 548.046, F.S.; deleting reference to the Medical Advisory Council, to conform; repealing s. 580.151, F.S., to abolish the Commercial Feed Technical Council; repealing s. 13, ch. 99-332, Laws of Florida, to abolish the Task Force on Home Health Services Licensure Provisions; repealing s. 11, ch. 99-354, Laws of Florida, to abolish the Information Service Technology Development Task Force; repealing s. 240.5186(11), F.S., relating to authority of the Institute on Urban Policy and Commerce to subcontract with the Information Service Technology Development Task Force for assistance under the Community High-Technology Investment Partnership (CHIP) program, to conform; repealing s. 6, ch. 99-393, Laws of Florida, to abolish the advisory group on the submission and payment of health claims established by the Director of the Agency for Health Care Administration; repealing s. 192, ch. 99-397, Laws of Florida, to abolish the task force established to review funding sources of the Public Medical Assistance Trust Fund; abolishing the Diversity Council and the State Customer Advisory Council under the Department of Labor and Employment Security; abolishing the State Agency Law Enforcement Radio System Review Panel under the Department of Management Services; abolishing the Driver’s Under the Influence (DUI) Advisory Council and the Florida Rider Training Program Citizen Motorcycle Safety Council under the Department of Highway Safety and Motor Vehicles; abolishing the Bonifay State Farmers Market Advisory Council, Florida City State Farmers Market Advisory Committee, Fort Myers State Farmers Market Advisory Council, Fort Pierce State Farmers Market Advisory Council, Gadsden County State Farmers Market Advisory Council, Immokalee State Farmers Market Advisory Council, Nitrate Bill Best Management Practices Advisory Group, Palatka State Farmers Market Advisory Council, Plant City State Farmers Market Advisory Council, Pompano Beach Farmers Market Authority, Sanford State Farmers Market Advisory Council, Seed Potato Advisory Council, Starke State Farmers Market Advisory Council, Suwannee Valley State Farmers Market Advisory Council, Trenton State Farmers Market Advisory Council, Tropical Soda Apple Task Force, and Wauchula State Farmers Market Advisory Council; providing effective dates.

—was read the second time by title.

On motion by Rep. Flanagan, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Flanagan and Bennett offered the following:

(Amendment Bar Code: 524831)

Amendment 1 (with title amendment)—On page 31, lines 16-17, remove from the bill: all of said lines

And the title is amended as follows:

On page 2, lines 8-12, remove from the title of the bill: all of said lines

and insert in lieu thereof: Team, to conform; repealing s. 272.12(2)-(6), F.S., to

Rep. Flanagan moved the adoption of the amendment, which was adopted.

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Resolutions

By Representative Flanagan—

HR 9005—A resolution commemorating the celebration of Saint Patrick’s Day on March 17, 2001.

WHEREAS, Saint Patrick is responsible for bringing literacy to the people of Ireland, which led to Ireland’s status as one of the most literary nations in the world, and

WHEREAS, Americans of Irish birth and Irish descent have played a significant role in the building of America, especially in military and governmental service, business, politics, and the arts, and

WHEREAS, Florida’s Capital City has established a Sister City Program with Sligo, Ireland, and

WHEREAS, a significant number of the members of the Florida Legislature are of Irish ancestry, and

WHEREAS, there are over forty million Americans of Irish ancestry and over three million Floridians of Irish ancestry, NOW, THEREFORE,

Be It Resolved by the House of Representatives of the State of Florida:

That the House of Representatives joins with the Irish American Caucus and all Floridians of good heart on Saint Patrick’s Day, March 17, 2001, in celebrating the continuing contribution of Irish Americans, their spirit, and their dreams for peace and brotherhood.

—was read the first time by title and the second time by title. On motion by Rep. Flanagan, the resolution was adopted.

The board was opened [Session Vote Sequence: 55] and the following Members were recorded as cosponsors of the resolution, along with Rep. Flanagan: Reps. Alexander, Allen, Andrews, Argenziano, Arza, Attkisson, Atwater, Ausley, Baker, Ball, Barreiro, Baxley, Bean, Bendross-Mindingall, Bennett, Bense, Benson, Berfield, Betancourt, Bilirakis, Bowen, Brown, Brummer, Brutus, Bucher, Bullard, Byrd, Cantens, Carassas, Clarke, Crow, Cusack, Davis, Detert, Diaz de la Portilla, Diaz-Balart, Dockery, Farkas, Fasano, Feeney, Fields, Fiorentino, Frankel, Gannon, Garcia, Gardiner, Gelber, Gibson, Goodlette, Gottlieb, Green, Greenstein, Haridopolos, Harper, Harrell, Harrington, Hart, Henriquez, Heyman, Hogan, Holloway, Jennings, Johnson, Jordan, Joyner, Justice, Kallinger, Kendrick, Kilmer, Kosmas, Kottkamp, Kravitz, Kyle, Lacasa, Lee, Lerner, Littlefield, Lynn, Macheck, Mack, Mahon, Mayfield, Maygarden, McGriff, Meadows, Mealor, Melvin, Murman, Needelman, Negron, Paul, Peterman, Pickens, Prieguez, Rich, Richardson, Ritter, Romeo, Ross, Rubio, Russell, Ryan, Seiler, Simmons, Siplin, Slosberg, Smith, Sobel, Sorensen, Spratt, Stansel, Trovillion, Wallace, Waters, Weissman, Wiles, and Wishner.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 1:30 p.m., Thursday, March 22. The motion was agreed to.

Prime Sponsors

- HB 285—Weissman
- CS/HB 367—Cantens
- HB 457—Waters
- CS/HB 501—Cantens
- HB 985—Wiles
- HB 1389—Alexander
- HB 1525—Brutus, Lerner, Weissman

Cosponsors

- HB 23—Kendrick, Melvin, Ritter
- HB 25—Littlefield
- HB 35—Atwater, Ausley

- HM 37—Dockery
- HB 43—Bennett, Cantens, Gelber, Meadows
- HB 45—Dockery, Melvin, Paul
- HJR 49—Gottlieb, Greenstein, Lee
- HB 65—Baker, Barreiro, Bullard, Gelber, Kallinger, Melvin, Peterman, Wallace
- HB 95—Dockery
- HB 131—Dockery
- HB 159—Diaz de la Portilla
- HB 169—Diaz de la Portilla
- HB 183—Bilirakis, Justice, Meadows, Richardson
- HB 185—Bilirakis, Justice, Meadows, Richardson
- HB 189—Dockery
- HB 239—Mayfield
- HB 265—Diaz de la Portilla
- HB 281—Lynn
- HB 285—Meadows
- HJR 295—Diaz de la Portilla
- HB 299—Green
- HB 307—Melvin
- HB 315—Greenstein
- HB 381—Betancourt, Heyman, Kosmas, Wilson
- HB 427—Henriquez
- HB 441—Russell
- HB 443—McGriff
- HB 449—Hogan, Spratt
- HB 487—Alexander, Heyman
- HB 491—Garcia, Kottkamp, Melvin, Pickens
- HB 507—Bean, Harper, Sobel, Weissman
- HB 523—Heyman
- HB 545—Diaz de la Portilla
- HB 549—Rich
- HB 621—Henriquez
- HB 653—Diaz de la Portilla
- HB 691—Mayfield
- HB 701—Bucher
- HB 705—Littlefield
- HB 723—Pickens
- HB 727—Harrell, Jennings
- HB 733—Kosmas
- HB 809—Diaz de la Portilla, Joyner
- HB 959—Bean, Brutus, Cantens, Rich, Romeo, Rubio
- HB 971—Diaz de la Portilla
- HB 973—Wiles
- HB 981—Hogan, Romeo
- HB 985—Ausley, Bean, Cusack, Davis, Farkas, Gannon, Gelber, Gibson, Henriquez, Joyner, Littlefield, Macheck, McGriff, Needelman, Sobel, Weissman
- HB 991—Gottlieb, Murman, Romeo
- HB 1035—Mayfield
- HB 1039—Davis, Sorensen
- HB 1059—Holloway, Mayfield, Slosberg
- HB 1089—Paul
- HB 1095—Atwater, Bean, Bense, Betancourt, Davis, Diaz de la Portilla, Gannon, Henriquez, Heyman, Kendrick, Mahon, McGriff, Rich, Romeo, Wiles
- HB 1169—Littlefield
- HB 1175—Bucher
- HB 1193—Alexander, Baxley, Diaz de la Portilla, Melvin, Paul, Pickens
- HB 1203—Bense, Pickens
- HB 1263—Spratt, Stansel
- HB 1361—Fiorentino
- HB 1389—Gannon, Harrington, Macheck, Pickens, Spratt, Stansel
- HB 1495—Needelman
- HB 1521—Siplin
- HB 1525—Henriquez, Meadows, Richardson, Smith, Wilson

Withdrawals as Cosponsor

- HB 553—Littlefield

Introduction and Reference

By the Committee on Health Regulation; Representatives Farkas, Sobel, Ritter, Alexander, Fiorentino, Siplin, and Johnson—

HB 1543—A bill to be entitled An act relating to health care practitioner credentialing; amending s. 456.047, F.S.; providing intent; revising and providing definitions; revising duties of the Department of Health relating to file maintenance; providing that primary source data verified by the department or its designee may be relied upon to meet accreditation purposes; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Education Appropriations; Representatives Lynn, Lacasa, Flanagan, Jordan, and Arza—

HB 1545—A bill to be entitled An act relating to school district performance; providing a short title; amending s. 229.57, F.S.; requiring the designation and publication of district performance grades; amending s. 236.02, F.S.; revising minimum requirements of the Florida Education Finance Program to include minimum classroom expenditure requirements and associated reporting; creating s. 236.08102, F.S.; authorizing the Legislature to require a school district that fails to meet minimum academic performance standards to meet district minimum classroom expenditure requirements; providing for monitoring; requiring reports; amending s. 237.041, F.S.; requiring a district's annual budget to include provision for required minimum classroom expenditure requirements; amending s. 237.081, F.S.; requiring the advertisement of the tentative school district budget to include notice of minimum classroom expenditure requirements; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kottkamp—

HB 1547—A bill to be entitled An act relating to the Florida Prepaid College Program; amending s. 240.551, F.S.; authorizing the purchase of advance payment contracts for scholarships by not-for-profit organizations; revising the definition of the term "purchaser" and information required to be included in an advance payment contract, to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Kilmer, Lynn, Maygarden, Goodlette, Fiorentino, Melvin, Mealor, Harrington, Miller, and Bense—

HB 1549—A bill to be entitled An act relating to outsourcing; amending s. 14.203, F.S.; changing the membership of the State Council on Competitive Government; providing definitions; providing for appointments; providing qualifications for membership; providing for terms and limitation on terms; providing additional powers and duties of the council; providing that certain business entities shall be given preference when bidding to provide services previously provided by state agencies; authorizing each state agency to bid on any contract for the provision of services previously provided by any state agency; providing that all outsourcing contracts, other than certain contracts subject to the Correctional Privatization Commission, must be awarded by the council; creating s. 14.2031, F.S.; prohibiting the council from awarding contracts unless it determines a certain cost savings; creating s. 14.2032, F.S.; requiring the Auditor General to develop and implement a costs and benefits analysis; requiring regular evaluation of contractors for state services by the Auditor General; creating s. 14.2033, F.S.; prohibiting certain contacts with council members and employees; providing for applicability; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Jennings, McGriff, and Kendrick—

HB 1551—A bill to be entitled An act relating to enterprise zones; amending s. 290.0065, F.S.; providing for a change in the boundaries of an enterprise zone; providing limitations; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Rich—

HB 1553—A bill to be entitled An act relating to subsidized child care; amending s. 402.3015, F.S.; providing for families who may receive child care if funds appropriated are not projected to be spent on families with priority for receiving such care; providing a timeframe for distribution of funds; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Peterman—

HB 1555—A bill to be entitled An act relating to the South Florida Water Management District; directing the district to develop an Everglades restoration information outreach program targeting minority communities located near the Everglades; providing for certain dissemination of information; providing for assistance from an African-American or Hispanic environmentalist or scientist; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bucher—

HB 1557—A bill to be entitled An act relating to sexual violence; providing requirements for law enforcement agencies in investigating sexual battery or attempted sexual battery; requiring that an agency actively pursue investigations of sexual violence; providing requirements for communications personnel with respect to responding to a report of sexual violence; requiring law enforcement agencies to provide the Sexual Violence Reference Card to officers; providing requirements for the investigating officer; providing requirements for the written police report; prohibiting an officer from disregarding a complaint of sexual violence under specified circumstances; prohibiting an officer from reporting a personal opinion as to the credibility of the victim; providing requirements for a followup investigation; providing requirements for interviews; requiring documentation of the investigation; requiring a review of any case in which an arrest is not made; providing requirements for designating an officer as a sexual violence investigator; providing requirements when a law enforcement officer is alleged to be a sexual violence offender; providing requirements for training and competency; requiring the dissemination of a law enforcement agency's policies; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Mahon—

HB 1559—A bill to be entitled An act relating to sovereign immunity; amending s. 768.28, F.S.; increasing the recovery limits under the limited waiver of sovereign immunity in tort actions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Harrell—

HB 1561—A bill to be entitled An act relating to public records; providing an exemption from the public records law for individual records of children enrolled in Learning Gateway programs; providing for the release of such records for specified purposes; exempting from the public records law those records held by a Learning Gateway program which would be confidential if held by a state agency; providing for future legislative review and repeal; providing a finding of public necessity; providing a contingent effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Harrington—

HB 1563—A bill to be entitled An act relating to the Community-Based Development Organization Assistance Act; providing appropriations; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Hogan—

HB 1565—A bill to be entitled An act relating to public records; providing an exemption from public records requirements for information identifying the location of specified archaeological and cultural sites; providing an expiration date; providing a finding of public necessity; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Lacasa—

HB 1567—A bill to be entitled An act relating to medical practice; creating s. 458.35, F.S.; limiting to certain medical licensees the ownership or operation of medical practice settings or diagnostic facilities; providing exemptions; requiring certain medical practice settings or diagnostic facilities not owned by such licensees to employ a medical director; requiring registration of medical practice settings or diagnostic facilities; providing for fees; providing for the adoption of rules; providing responsibilities for medical directors of such facilities; providing penalties; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Lacasa—

HB 1569—A bill to be entitled An act relating to rehabilitation of contaminated sites; amending s. 199.1055, F.S.; clarifying who may apply for contaminated site tax credits; clarifying time period for use of tax credits; amending s. 220.1845, F.S.; clarifying who may apply for contaminated site tax credits; clarifying time period for use of tax credits; allowing taxpayers to claim credit on a consolidated return up to the amount of the consolidated group's tax liability; creating s. 376.30701, F.S.; extending application of risk-based corrective action principles to all contaminated sites resulting from a discharge of pollutants or hazardous substances; providing for contamination cleanup criteria that incorporate risk-based corrective action principles to be adopted by rule; providing clarification that cleanup criteria do not apply to offsite relocation or treatment; providing the conditions under which further rehabilitation may be required; amending s. 376.30781, F.S.; clarifying who may apply for contaminated site tax credits; converting tax credit application time period to calendar year; revising the application deadline; providing that incomplete placeholder applications shall not be accepted; providing for transferability of tax credits; deleting obsolete language; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Lee and Mahon—

HB 1571—A bill to be entitled An act relating to property and casualty insurance risk apportionment; amending s. 627.351, F.S.; providing that nursing homes and assisted living facilities are immediately eligible for coverage in the Florida Property and Casualty Joint Underwriting Association; providing that rates used by the association are subject to s. 627.062, F.S.; eliminating provisions tying the initial rates of the association to rates contained in the Insurance Services Office filing with the Department of Insurance; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Ausley—

HB 1573—A bill to be entitled An act relating to the State Council on Competitive Government; amending s. 14.203, F.S.; providing definitions; requiring the council to direct the Office of Program Policy Analysis and Government Accountability and the Director of Efficiency and Enterprise Development of the office of planning and budgeting in the Executive Office of the Governor to review and report on all requests for proposals, invitations to bid, invitations to negotiate, or contracts issued by state agencies that propose the privatization of funded government; requiring state agencies to submit certain privatization proposals to the council; providing considerations and criteria for review

and report; providing circumstances for competition with private sources or other state agency service providers; requiring a contract entered into by an executive branch agency to include a statement of contingent effect; providing for open meetings and records; providing that a vendor must be a domiciled state corporation or have a significant business presence in the state; providing a definition; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Rubio—

HB 1575—A bill to be entitled An act for the relief of the Estate of Alice Berdat, deceased; providing an appropriation to compensate the Estate of Alice Berdat for the death of Alice Berdat due to the negligence of the Department of Corrections; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Machek—

HB 1577—A bill to be entitled An act relating to water management district fiscal matters; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budget must be sent for review; specifying the contents of the tentative budget; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Flanagan—

HB 1579—A bill to be entitled An act relating to health care practitioners; amending s. 456.072, F.S.; providing that failure to disclose medical training in advertisements or to patients in informed consent forms constitutes a ground for discipline of a health care practitioner; providing penalties; amending s. 458.309, F.S.; providing requirements for approval of boards granting medical specialty certification; amending s. 458.331, F.S.; including failure to disclose medical training in advertisements and informed consent forms within the disciplinary ground of false, deceptive, or misleading advertising applicable to physicians; providing penalties; amending s. 459.005, F.S.; providing requirements for approval of boards granting osteopathic medical specialty certification; amending s. 459.015, F.S.; including failure to disclose medical training in advertisements and informed consent forms within the disciplinary ground of false, deceptive, or misleading advertising applicable to osteopathic physicians; providing penalties; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Frankel—

HB 1581—A bill to be entitled An act relating to nursing homes and related facilities; amending s. 400.071, F.S.; requiring a plan for quality assurance and risk management as a condition for licensure; amending s. 400.102, F.S.; providing additional grounds for certain actions by the Agency for Health Care Administration against a nursing home; creating s. 400.117, F.S.; requiring each nursing home to maintain a quality assessment and assurance committee; providing membership and duties; providing for a quality improvement program; providing for monitoring of the provision of care and review of the staff education

plan; amending s. 400.121, F.S.; increasing penalties; requiring, rather than authorizing, license suspension or revocation, or moratorium on admissions, under certain conditions; providing an additional condition for imposition of a moratorium; reducing timeframes for certain license suspensions and revocation hearings; reenacting s. 400.125, F.S., relating to authorization for injunction; amending s. 400.126, F.S.; providing for petition to the court for appointment of a receiver for a nursing home that fails to maintain required minimum staffing levels; requiring such petition to the court under certain circumstances; providing conditions for operation and termination of receivership; authorizing the agency to adopt rules; creating s. 400.1411, F.S.; providing requirements for a facility's physical environment; creating s. 400.1412, F.S.; specifying quality of care requirements; requiring certain daily charting; creating s. 400.14125, F.S.; specifying requirements for resident assessment and plan of care; creating s. 400.1413, F.S.; specifying minimum staffing requirements; creating s. 400.1414, F.S.; requiring each facility to implement a staff education plan; specifying education requirements; amending s. 400.1415, F.S.; increasing penalty for alteration of records; creating s. 400.1416, F.S.; requiring designation of a full-time employee to be responsible for a facility's medical records; providing requirements for maintenance of medical records; creating s. 400.1417, F.S.; providing requirements for maintenance of fiscal records; amending s. 400.19, F.S.; deleting requirement for permission prior to certain entry and inspection of a facility; creating s. 400.201, F.S.; providing requirements for physician services; requiring a medical director for certain facilities; creating s. 400.203, F.S.; providing requirements for dietary services; requiring designation of a full-time employee as a dietary services supervisor; amending s. 400.23, F.S.; providing for rules relating to resident assessment and plan of care; increasing penalties for deficient practices; amending s. 400.241, F.S.; increasing a penalty for violation of minimum standards; providing penalties for failure of a nursing home to maintain required minimum staffing levels; creating s. 400.351, F.S.; establishing a nursing home internal risk management program; requiring employment of a facility internal risk manager; providing for rules; providing responsibilities; providing for certain immunity from liability; providing reporting requirements; providing penalties, including a penalty for false allegations; providing for agency review of internal risk management programs; creating s. 400.353, F.S.; providing for private utilization review of nursing home services; providing for registration of agents; providing a fee; providing for background screening; providing penalties; providing for rules; creating s. 400.354, F.S.; providing agency procedures for investigation of complaints against a nursing home; creating s. 400.355, F.S.; providing purpose relating to minimum standards for nursing home risk managers; creating s. 400.356, F.S.; providing for appointment of a Nursing Home Risk Manager Advisory Council; creating s. 400.357, F.S.; providing powers and duties of the agency relating to standards, licensing, and disciplining of nursing home risk managers; creating s. 400.358, F.S.; providing for issuance of licenses; creating s. 400.359, F.S.; providing grounds for denial, suspension, or revocation of a license; providing administrative fines; amending s. 408.040, F.S.; providing additional grounds for denial of certificate of need for a nursing home or related facility; amending ss. 458.331 and 459.015, F.S.; providing for agency investigation of adverse incident occurrences that may constitute grounds for disciplinary action against a physician; amending s. 400.063, F.S.; correcting a cross reference; prohibiting a nursing home or assisted living facility from taking retaliatory action against any person who discloses unlawful acts of the entity or its employees; providing a cause of action for aggrieved persons; authorizing specified court actions; requiring health care entities to provide notice on their premises that such retaliatory action is not permitted; providing definitions; requiring reports; providing for use of certain funds for wage and benefit increases for certain nursing home staff; requiring the Auditor General to develop and submit to the agency a standard chart of accounts for Medicaid long-term care provider cost reports; requiring the agency to implement the chart of accounts by a specified date; repealing s. 400.118, F.S., relating to the quality assurance early warning system, monitoring, and rapid response teams; providing an appropriation; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Frankel, Smith, and Gelber—

HB 1583—A bill to be entitled An act relating to elections; amending s. 98.097, F.S.; requiring that the central voter file administered by the Division of Elections of the Department of State immediately reflect changes to information in the file and that such changes be immediately available statewide to users of the file; amending s. 98.255, F.S.; requiring the division to adopt rules establishing standards for voter education and training programs to be provided by the supervisor of elections in each county; providing annual appropriations therefor and requiring annual reports thereon; amending s. 100.011, F.S.; placing the opening and closing of the polls on Eastern Standard Time throughout the state; extending the time the polls are open; amending ss. 101.45, 101.65, and 101.67, F.S., relating to duties of the election board prior to opening the polls in precincts where voting machines are used, to instructions to absent electors, and to the deadline for receiving absentee ballots, respectively, to conform; amending s. 101.111, F.S.; authorizing election officials to challenge the right of any person to vote; providing for issuance of provisional ballots to challenged voters under certain circumstances; providing requirements for such ballots; providing for review and canvassing of such ballots; amending ss. 98.481 and 101.657, F.S., to conform; creating s. 101.005, F.S.; providing for a uniform statewide voting system and ballots; providing rulemaking authority to the department to implement and adopt standards for the system, including ballot requirements; providing an appropriation for the counties to purchase the new system; amending s. 101.015, F.S.; prohibiting the certification for use in this state of certain voting systems; amending ss. 97.021, 101.5603, 101.5606, and 101.5614, F.S., to conform; creating s. 101.6575, F.S.; requiring the office of the supervisor of elections and any branch office to be open on the Saturday prior to any statewide election or other election held in conjunction therewith, for the purpose of allowing early in-person absentee voting for that election; creating s. 101.725, F.S.; providing for a Voter's Bill of Rights; providing responsibilities of supervisors of elections; amending s. 102.012, F.S.; requiring the division to adopt rules establishing standards for poll worker training; amending s. 102.141, F.S.; specifying what constitutes active participation in a campaign or candidacy in an election being canvassed for purposes of disqualification of a canvassing board member; amending ss. 233.061 and 233.0612, F.S.; making voting instruction in the public schools a required rather than an optional element of the curriculum; creating a task force to study the establishment of an independent State Board of Elections; providing for appointment of members and authorizing reimbursement for per diem and travel expenses incurred in official duties; providing for staffing and funding by the Executive Office of the Governor; providing for a report and termination of the task force upon submission of the report; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Detert, Lerner, and Brutus—

HB 1585—A bill to be entitled An act relating to public records; providing an exemption from public-records requirements for information relating to abandoned property which is contained in reports to the Department of Banking and Finance under s. 717.117, F.S.; providing for future review and repeal; providing findings of public necessity; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Baxley—

HB 1587—A bill to be entitled An act relating to obtaining personal property or equipment illegally; amending s. 812.155, F.S.; revising provision relating to applicability of said section to include rental stores that retain title to the property throughout the rental-purchase agreement period; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Ross—

HB 1589—A bill to be entitled An act relating to instant bingo games; amending s. 849.0931, F.S.; redefining the term "bingo game";

authorizing the conduct of instant bingo games by certain organizations; providing a definition, prize limitations, and rules for operation; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Romeo—

HB 1591—A bill to be entitled An act relating to health insurance; providing legislative intent to provide expanded access to health insurance for adults living in families whose income is at or below the federal poverty level and to access federal funds for this coverage; requiring the Agency for Health Care Administration to file amendments to the state plan and waiver requests with the U.S. Department of Health and Human Services; creating the Health Care Coverage Workgroup; providing membership and purpose; amending s. 409.901, F.S.; defining the term “family”; amending s. 409.904, F.S.; authorizing the agency to make payments for medical assistance for families and individuals whose income is at or below 133 percent of the federal poverty level; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Negron and Lerner—

HB 1593—A bill to be entitled An act relating to animal fighting or baiting; amending s. 828.122, F.S.; defining the term “equipment”; revising the elements of the crime of animal baiting or fighting; prohibiting additional acts associated with animal fighting or baiting; providing for the seizure, impoundment, and euthanasia of animals under certain conditions; providing penalties; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Peterman—

HB 1595—A bill to be entitled An act relating to farm labor contractors; amending s. 450.34, F.S.; prohibiting the charging of certain fees to farm laborers; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Peterman—

HB 1597—A bill to be entitled An act relating to insurance; creating s. 627.4553, F.S.; requiring life insurers having certain types of policies in force to annually notify policyholders of certain information concerning their policies; providing exceptions; amending s. 627.4555, F.S.; limiting an exception from specified notice requirements with respect to lapse of life insurance coverage for nonpayment of premium; creating s. 627.4587, F.S.; requiring benefit enhancement of certain types of policies if the premium payment reaches certain levels; creating s. 627.5015, F.S.; prohibiting delivery or issuance of industrial life insurance policies after a specified date; requiring notice to policyholders of existing policies; providing an exception; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Simmons—

HB 1599—A bill to be entitled An act relating to motor vehicle financial responsibility; amending s. 324.021, F.S.; revising the definition of the term “motor vehicle”; increasing financial responsibility limits with respect to bodily injury or death in a single accident; creating s. 324.023, F.S.; requiring proof of financial responsibility for bodily injury or death; amending s. 324.031, F.S.; increasing limits for proof of financial responsibility for for-hire transportation vehicle certificates of self-insurance; amending s. 324.161, F.S.; increasing the amount required for a surety bond or deposit for proof of financial responsibility; amending s. 324.171, F.S.; revising the required threshold limit for self-insurers; amending ss. 316.646 and 627.733, F.S., to conform to the act; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Jennings, Greenstein, Meadows, Weissman, Richardson, McGriff, Peterman, Kendrick, and Diaz de la Portilla—

HB 1601—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Mayfield—

HB 1603—A bill to be entitled An act relating to the comprehensive Everglades restoration plan; amending s. 373.026, F.S.; requiring the South Florida Water Management District to submit certain information to the Joint Legislative Committee on Everglades Oversight; requiring the committee to provide certain review of appropriation requests and make recommendations to the Legislature; providing that state funds for land purchases are authorized if contained within the district’s Florida Forever 5-year work plan; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing for regulation of comprehensive plan project components; providing intent; providing an expedited permit process; providing a fee; providing for renewal; amending s. 373.4149, F.S.; clarifying boundaries of the Miami-Dade County Lake Belt Area; amending s. 373.470, F.S.; revising due date of the annual report on implementation of the comprehensive plan; amending s. 403.088, F.S.; providing application of water pollution operation permitting procedures to facilities constructed, operated, or maintained in the South Florida ecosystem, including the components of the comprehensive Everglades restoration plan; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Jennings, Richardson, McGriff, Peterman, Greenstein, Ausley, Kendrick, and Diaz de la Portilla—

HB 1605—A bill to be entitled An act relating to state government; creating s. 14.204, F.S.; creating the State Council on Competitive Government; providing for appointment of members, powers, and duties; providing for review of government services and functions in relation to the performance of those services and functions by nongovernment providers; providing criteria for review; providing for contract recommendations; providing limitations on contracts for services under certain circumstances; repealing s. 14.203, F.S., which provides for a State Council on Competitive Government; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bennett—

HB 1607—A bill to be entitled An act relating to rulemaking authority of the Department of Insurance; codifying department rules and granting the department additional rulemaking authority; amending s. 112.215, F.S.; providing for self-funding of administrative costs of deferred compensation; amending ss. 624.3161 and 626.171, F.S.; authorizing the department to adopt certain rules; amending s. 626.748, F.S.; specifying additional recordkeeping requirements for agents; amending s. 626.9541, F.S.; providing additional criteria for an unfair discrimination prohibition; creating s. 626.9552, F.S.; specifying requirements for single interest insurance; amending s. 627.062, F.S.; clarifying certain information reporting requirements; amending s. 627.0625, F.S.; providing an additional requirement for commercial motor vehicle insurance policies; authorizing the department to adopt rules; creating s. 627.385, F.S.; specifying conduct prohibitions for residual market board members; creating s. 627.4065, F.S.; requiring certain notice provisions in health insurance policies; providing for an insured’s right to return a policy; amending s. 627.7276, F.S.; revising a limited coverage notice requirement; creating s. 627.795, F.S.; providing title insurance requirements for real estate closings;

amending s. 627.918, F.S.; requiring the department to adopt certain reporting format standards; amending s. 627.9408, F.S.; authorizing the department to adopt long-term care insurance regulation rules; amending s. 641.2342, F.S.; providing for financial examination of contract providers by the department; amending s. 641.31, F.S.; revising a reimbursement for covered services and supplies provision; amending s. 641.3108, F.S.; prohibiting health maintenance organization cancellation of certain contracts during a contract period; providing exceptions; providing requirements for nonrenewal of subscriber group contracts; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Richardson—

HB 1609—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.0515, F.S.; providing eligibility of certain treatment and rehabilitation personnel at correctional or forensic facilities for membership in the Special Risk Class; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Arza—

HB 1611—A bill to be entitled An act for the relief of Mary Beth Wiggers; providing an appropriation to compensate Mary Beth Wiggers for injuries she sustained due to the negligence of the Department of Corrections; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

Referred to the Committee on Claims; and Procedural & Redistricting Council.

By Representative Bilirakis—

HB 1613—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for textbooks and other books required or recommended in connection with a course of study at a public or private nonprofit postsecondary educational institution; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Brummer—

HB 1615—A bill to be entitled An act relating to school district finance; creating s. 236.255, F.S.; creating the School District Guarantee Program; allowing district school boards to request the financial backing of the state or county in the issuance of certificates of participation; providing that such financial backing by the state or county is optional and contingent on funds set aside for that purpose; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Dockery—

HB 1617—A bill to be entitled An act relating to growth management; amending s. 163.3177, F.S.; providing legislative intent and findings; requiring that a local government comprehensive plan include a public educational facilities element; providing that the state land planning agency shall establish a schedule for adoption of such elements; exempting certain municipalities from adopting such elements; requiring local governments and the school board to enter into an interlocal agreement and providing requirements with respect thereto; providing requirements for such elements; providing requirements for future land use maps; specifying the process for adoption of such elements; specifying the effect of a local government's failure to transmit such element according to the adopted schedule; requiring that local governments consider the adequacy of public school facilities when considering certain comprehensive plan amendment and rezoning applications; providing duties of the school board; requiring denial of such applications under certain conditions; amending s. 163.3180, F.S.;

providing requirements with respect to the public educational facilities element when school concurrency is imposed by local option; amending ss. 163.3187 and 163.3191, F.S.; conforming language; creating s. 163.3198, F.S.; directing the state land planning agency to develop fiscal analysis models for determining the costs and revenues of proposed development; creating a commission to oversee such development; providing for field tests of the models developed; providing for approval of a uniform model by the commission and submission of a report and recommendations to the Governor and Legislature; amending s. 235.002, F.S.; revising legislative intent and findings with respect to educational facilities; amending s. 235.15, F.S.; removing specific need assessment criteria for a school district's educational plant survey and providing that the survey shall be submitted as part of the district's educational facilities plan; providing that such surveys are deemed to meet state constitutional requirements, subject to State Board of Education approval; amending s. 235.175, F.S.; providing legislative purpose with respect to the district educational facilities plans; amending s. 235.18, F.S.; conforming language; amending s. 235.185, F.S.; providing definitions; providing requirements for preparation of an annual tentative educational facilities plan by each school district; providing requirements for long-range planning; providing requirements for the district's facilities work program; providing for submittal of the tentative plan to local governments for review and comment; providing for annual adoption of the plan; providing for execution of the plan; amending s. 235.188, F.S.; conforming language; amending s. 235.19, F.S.; removing a requirement that the Commissioner of Education prescribe recommended sizes for new educational facility sites; amending s. 235.193, F.S.; requiring school districts and local governments to enter into an interlocal agreement and providing requirements with respect thereto; specifying effect of failure to enter into the interlocal agreement; requiring the school board to provide a local government certain information when it is considering certain comprehensive plan amendment or rezoning applications; revising requirements relating to school board responsibilities in planning with local governments; revising a notice requirement regarding proposed use of property for an educational facility; providing for inclusion of an alternative process for proposed facility review in the required interlocal agreement; repealing s. 235.194, F.S., which requires school boards to submit an annual general educational facilities report to local governments; amending ss. 235.218, 235.321, and 236.25, F.S.; conforming language; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Frankel—

HB 1619—A bill to be entitled An act relating to public meetings and public records; amending s. 400.351, F.S.; providing an exemption from public meetings and public records requirements for nursing home governing board or committee meetings held solely for the purpose of achieving internal risk management objectives; providing for future review and repeal; providing a finding of public necessity; creating s. 400.351, F.S., and creating s. 400.352, F.S.; providing an exemption from public records requirements for information contained in a notification of an adverse incident provided to the Agency for Health Care Administration by a nursing home facility, and information and reports obtained by the agency related to such adverse incidents; providing that such information is not discoverable or admissible in a civil action or administrative proceeding unless such action or proceeding is a disciplinary proceeding conducted by the agency or a regulatory board; providing for future review and repeal; providing a finding of public necessity; amending s. 400.354, F.S.; providing exemptions from public records requirements for any complaint against a nursing home for violation of pt. II of ch. 400, F.S., and for information obtained by the Agency for Health Care Administration during an investigation related thereto; providing conditions for disclosure; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Ritter—

HB 1621—A bill to be entitled An act relating to corporations; amending s. 607.01401, F.S.; redefining the term "electronic

transmission” to include telegrams, cablegrams, telephone transmissions, and transmissions through the Internet; amending s. 607.0721, F.S.; providing requirements for the voting of shares held by partnerships, limited liability companies, and other similar entities; amending s. 607.0722, F.S.; specifying those persons who may vote on behalf of a shareholder; authorizing the appointment of a proxy by electronic transmission; deleting provisions limiting the period during which an appointment of proxy is irrevocable; authorizing the use of certain copies or reproductions in lieu of the original writing or electronic transmission; authorizing a corporation to adopt bylaws authorizing additional procedures for shareholders to use in exercising certain rights; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Mahon—

HB 1623—A bill to be entitled An act relating to wetland mitigation; creating s. 373.4139, F.S.; providing definitions; authorizing the mitigation of wetland and surface water impacts resulting from the Better Jacksonville Plan through the acquisition of lands for preservation and through wetland restoration, enhancement, and creation projects of regional environmental benefit; providing legislative intent with respect to such mitigation; specifying areas to be afforded preference as mitigation areas; authorizing the City of Jacksonville and the St. Johns River Water Management District to jointly determine other areas to be afforded preference as mitigation lands; providing sources of funds for wetland and surface water mitigation; providing procedure with respect to land acquisition; requiring the preparation of an inventory of wetland and surface water resources to be impacted; providing for annual updating of the inventory; specifying inventory contents; requiring the district to develop a mitigation plan annually; requiring annual approval of a conceptual plan for mitigating impacts contained in the inventory by the governing board of the district; providing that approval of the conceptual plan creates a presumption that the mitigation contained therein satisfies the mitigation permitting requirements of ch. 373, F.S.; requiring the district to forward copies of the conceptual plan to, and seek to obtain formal concurrence of, specified federal agencies; providing procedure and requirements with respect to wetland and surface water mitigation; specifying powers of the district with regard to permitting; providing funding requirements; requiring specified deposits by permittees; authorizing the district and the City of Jacksonville to enter into certain agreements; authorizing the district to enter into certain contracts; providing specified powers of the district; providing procedure in the event that conceptual mitigation plans are not approved or adopted; authorizing exclusion of certain projects from the conceptual plan; providing construction; amending s. 373.4135, F.S.; providing nonapplicability to the provisions of s. 373.4139 with respect to the required establishment of specified environmental creation, preservation, enhancement, and restoration projects; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Hart—

HB 1625—A bill to be entitled An act relating to elections; creating s. 101.56061, F.S.; providing for a uniform statewide voting system; restricting approval to a precinct tabulation marksense-type voting system after a specified date; providing for development of a statewide direct reporting equipment voting system for future use if funded; authorizing the Department of State to hold the copyright to the direct reporting system’s software as provided by law; amending ss. 100.061 and 100.091, F.S.; revising the dates on which the primary elections are held; creating s. 101.122, F.S.; authorizing and providing requirements for provisional ballots; amending s. 97.021, F.S.; providing definitions; amending s. 102.166, F.S.; revising election protest procedures; amending s. 102.167, F.S.; providing the form of protest of election returns with the Elections Canvassing Commission; amending s. 102.168, F.S.; revising election contest procedures; amending s. 102.111, F.S.; revising membership of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s.

102.112, F.S.; revising deadlines for submission of county returns to the Department of State; eliminating provisions establishing fines for late reporting; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; authorizing the Department of State to hold the copyright to the database software as provided by law; providing for update of information in the database; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; creating s. 106.0705, F.S.; requiring electronic filing of campaign treasurer’s reports under certain circumstances; providing reporting dates; providing penalties; providing rulemaking authority; amending s. 101.6103, F.S.; revising the voter’s certificate for mail ballot elections to include a date requirement; providing for contingent effect of certain provisions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Ryan—

HB 1627—A bill to be entitled An act relating to environmental control; titling the act the “Florida Performance-Based Environmental Permitting Act”; providing legislative findings and public purpose; amending s. 403.087, F.S.; removing provisions relating to renewal of operation permits for specified domestic wastewater facilities, requirements for such renewal, and Department of Environmental Protection recordkeeping requirements with respect to such permits; revising conditions under which the department shall issue a permit to construct, operate, maintain, expand, or modify an installation which may reasonably be expected to be a source of pollution; creating s. 403.0874, F.S.; establishing the Performance-Based Environmental Permit Program; providing definitions; requiring applicants under the Florida Air and Water Pollution Control Act to submit specified information to the department; requiring the department to consider the compliance history of applicants; requiring the department to review the compliance history of applicants seeking review or modification of a permit and applicants seeking a permit for a new facility; creating a point schedule for violations, and incidents leading to violations, of environmental regulation for the purpose of assessing applicants; requiring the department to compute points based on the schedule; providing basis for assignment of points; providing period of time during which points assessed against an applicant remain in effect; providing for burden of proof in proceedings challenging proposed agency action; providing a point threshold upon which the department is required to conduct a supplemental review and the applicant is required to submit an increased permit fee; providing actions which may be taken by the department subsequent to a supplemental review; providing actions which may be taken by the department and the applicant subsequent to a denial by the department; providing factors to be considered by the department prior to acting pursuant to a supplemental review; providing criteria to be considered in evaluating an applicant’s compliance program; providing construction; providing that applicants meeting certain criteria are eligible for specified compliance incentives; providing procedure, requirements, and eligibility criteria with respect to such incentives; providing for voluntary submission of prescribed compliance forms; providing for application of the act; amending s. 403.707, F.S.; removing provisions relating to departmental refusal to issue a permit under pt. IV of ch. 403, F.S., relating to resource recovery and management, to conform; amending ss. 403.703, 403.0871, and 403.0872, F.S.; correcting cross references; reenacting ss. 366.825(3), 378.901(9), 403.0881, 403.707(3), and 403.927(2), F.S., to incorporate the amendments to s. 403.087, F.S., in references thereto; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Arza—

HB 1629—A bill to be entitled An act relating to aviation fuel taxation; amending s. 206.9825, F.S.; rescinding the repeal of the alternative tax rate; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Diaz de la Portilla—

HJR 1631—A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution, relating to local government, to provide for the nonpartisan election of supervisors of elections.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Attkisson—

HB 1633—A bill to be entitled An act relating to student assessment; amending s. 229.57, F.S.; revising provisions relating to the designation of school performance grade categories; revising the basis for such designations; revising provisions relating to statewide annual assessments; revising provisions relating to the use of a statistical system for assessment; requiring the Commissioner of Education to establish a schedule for administration of assessments; reenacting ss. 230.23(16)(c), 231.085(4), 231.17(15), 231.29(3)(a), and 231.2905(4), F.S., relating to supplements for teachers based on assessment of student learning gains, use of student assessment data, comparison of routes to a professional certificate, assessment procedures for school personnel, and the School Recognition Program, to incorporate the amendment to s. 229.57, F.S., in references thereto; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Goodlette—

HB 1635—A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; clarifying enforcement powers of the Department of Environmental Protection with respect to pt. I of ch. 369, F.S., relating to aquatic plant control; amending s. 373.129, F.S.; revising a reference with respect to enforcement of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; creating s. 373.437, F.S.; authorizing the governing board of a water management district to assess administrative penalties for purposes of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; amending s. 377.37, F.S.; providing that the Department of Environmental Protection shall assess administrative penalties for energy resource violations in accordance with provisions for administrative remedies in s. 403.121, F.S.; providing for deposit of such penalties in the Minerals Trust Fund; specifying uses of funds; amending s. 378.211, F.S.; authorizing the department to institute an administrative action with respect to a violation of pt. III of ch. 378, F.S., relating to phosphate land reclamation; removing penalty limitations; amending s. 403.121, F.S.; revising provisions relating to judicial remedies available to the department under the Florida Air and Water Pollution Control Act; providing criteria for cases in which the department shall proceed with administrative action; providing exceptions; providing specified limits on administrative penalties and notice of violation seeking administrative penalties; revising provisions relating to notice and service of notice of violation; providing procedure and requirements with respect to administrative hearings; providing that a respondent may request mediation if the department imposes an administrative penalty; providing mediation procedure and requirements; providing for award of costs and attorney's fees in administrative proceedings; providing construction with respect to injunctive relief, damages, and settlements; authorizing the department to pursue penalties in excess of \$10,000 for specified violations; providing an administrative penalty schedule for drinking water contamination violations, domestic or industrial wastewater violations, dredge and fill stormwater violations, first-time mangrove trimming or altering violations, solid waste violations, air emission violations, and storage tank system and petroleum discharge or release violations; providing exceptions to the schedule; providing a schedule of additional administrative penalties; providing for consideration of a violator's history of noncompliance with respect to specified violations; providing penalty limits and reductions; providing for deposit and use of funds derived from administrative penalties; providing construction; amending s. 403.131, F.S.; providing that judicial and administrative remedies to recover damages and penalties in ss. 403.131 and 403.121, F.S., are alternative and mutually exclusive; amending s. 403.727, F.S.;

removing provisions relating to assessment by the department of noncompliance fees for Class II violations of pt. IV of ch. 403, relating to resource recovery and management, and the deposit of such fees; amending s. 403.860, F.S.; providing for assessment of administrative penalties by the department or a county health department for violations of pt. V of ch. 403, F.S., relating to environmental regulation, in accordance with s. 403.121, F.S.; eliminating provisions relating to noncompliance fees and administrative penalties to conform; requiring the department to submit a report; reenacting ss. 373.129(7), 373.303(1)(j), 376.322(4), 403.4135(2), 403.7045(3)(d), 403.708(12), 403.726(2) and (3), 403.727(2), 403.758(1), 403.811, and 403.9419, F.S., to incorporate the amendments to ss. 403.121 and 403.131, F.S., in references thereto; reenacting s. 627.756(2), F.S., to incorporate the amendment to s. 403.727, F.S., in a reference thereto; reenacting ss. 381.0063, 403.854(7), and 403.862(7), F.S., to incorporate the amendment to s. 403.860, F.S., in references thereto; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Berfield—

HB 1637—A bill to be entitled An act relating to recreational activities at facilities for elderly or disabled adults; authorizing bingo games for residents or clients of certain facilities for the elderly or disabled, and their guests; providing conditions; providing for use of proceeds; providing exemption from local regulation and fees; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Berfield—

HB 1639—A bill to be entitled An act relating to elevators; amending s. 399.01, F.S.; defining terms; amending ss. 399.02, 399.03, F.S.; providing regulatory standards for elevators and similar equipment; providing for permits for construction or alteration; providing for fees; creating s. 399.046, F.S.; providing for licenses for elevator contractors and certificates of competency for elevator mechanics and elevator inspectors; creating s. 399.106, F.S.; creating the Elevator Safety Review Board; providing for its membership and authority; repealing s. 399.045, F.S., which provides for a certificate of competency; repealing s. 399.05, F.S., which provides for construction permits; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bennett—

HB 1641—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term care facilities; amending s. 400.021, F.S.; defining the terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; creating s. 400.0223, F.S.; requiring a nursing home facility to permit electronic monitoring devices in a resident's room; specifying conditions under which monitoring may occur; providing that electronic monitoring tapes are admissible in civil or criminal actions; providing penalties; creating s. 400.0247, F.S.; requiring that copies of certain documents be forwarded to the state attorney if punitive damages are awarded; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk management plans; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or

impose a fine; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; requiring that the Agency for Health Care Administration review a facility's internal risk management and quality assurance program; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.1755, F.S.; prescribing training standards for employees of nursing homes that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring in service training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; increasing the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.237, F.S.; providing legislative intent regarding improvements in quality in nursing home facilities; requiring the Agency for Health Care Administration to develop and implement a system for grading nursing homes; specifying areas that must be evaluated by the grading system; requiring ranking of nursing homes according to their grading score; requiring the agency to identify improvement in nursing home performance; requiring the agency to reevaluate standards periodically and raise the standards to reflect improvements in nursing home grading scores; requiring the agency to convene a workgroup; specifying the membership of the workgroup; requiring nursing homes to post their rankings and improvement ratings; requiring the agency to publish the rankings and improvement ratings; authorizing the agency to adopt rules; creating s. 400.275, F.S.; providing for training of nursing home survey teams; providing requirements for participants in the agency's informal dispute resolution process; amending s. 400.402, F.S.; revising definitions applicable to part III of ch. 400, F.S., relating to the regulation of assisted living facilities; amending s. 400.407, F.S.; revising certain licensing requirements; providing a bed fee for licensed facilities in lieu of the biennial license fee; amending s. 400.414, F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.417, F.S.; revising requirements for license renewal; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; requiring that the Agency for Health Care Administration review a facility's internal risk management and quality assurance program; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.428, F.S.; revising requirements for the survey

conducted of licensed facilities by the agency; creating s. 400.4303, F.S.; requiring that copies of certain documents be forwarded to the state attorney if punitive damages are awarded; amending s. 400.435, F.S., relating to maintenance of records; conforming provisions to changes made by the act; amending s. 400.441, F.S.; clarifying facility inspection requirements; amending s. 400.442, F.S., relating to pharmacy and dietary services; conforming provisions to changes made by the act; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 464.201, F.S.; authorizing an additional training program for certified nursing assistants; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; requiring wage and benefit increases; requiring a report; providing appropriations; providing for severability; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Goodlette—

HB 1643—A bill to be entitled An act relating to insurance risk apportionment plans; amending s. 627.351, F.S.; creating the Citizens Property Insurance Corporation; revising and applying provisions relating to the Residential Property and Casualty Joint Underwriting Association and the association's member insurers to the corporation and the corporation's participating insurers; requiring certain insurers to participate in the corporation; providing for application to commercial property as well as residential; requiring a plan of operation; providing for division of revenues, assets, liabilities, losses, and expenses of the corporation into three accounts, to be maintained for certain purposes; amending ss. 215.555, 624.4071, 624.4072, 626.752, 627.0628, 627.3511, 627.3513, 627.3515, 627.3516, 627.7013, and 627.7014, F.S., to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Romeo and Spratt—

HB 1645—A bill to be entitled An act relating to rural development; creating the Florida Rural Heritage Act; providing legislative findings; providing definitions; providing for the designation of a Rural Heritage Area; providing for a community-based planning process; specifying guidelines for Rural Heritage Area plans; providing procedure for adoption of a plan; providing for economic incentives, reports, and technical assistance; creating the Rural Heritage Grant Program to assist local governments in adopting Rural Heritage Areas, to be administered by the Department of Community Affairs; providing for priority of funding; requiring the Department of Community Affairs to adopt rules; providing for development of a nature-and-heritage-based tourism business micro-loan program; providing for establishment of a revolving loan fund; providing for educational technology pilot programs to be established by the Department of Management Services; providing for agricultural diversification pilot projects to be administered by the Department of Agriculture and Consumer Services; providing for review and evaluation by the Office of Program Policy Analysis and Government Accountability; amending s. 163.3187, F.S.; providing conditions for adoption of local comprehensive plan amendments for rural activity centers and rural heritage areas; amending s. 187.201, F.S.; modifying goals of the State Comprehensive Plan to include housing for specified persons in rural areas and development of nature-based tourism; providing a policy of fostering integrated and coordinated community planning efforts; providing support for rural communities in developing nature-and-heritage-based tourism enterprises; providing support for landowners who wish their lands to remain in agricultural use; amending s. 212.096, F.S.; providing a credit against sales tax for businesses located in an enterprise zone within a rural county or city as defined; amending s. 220.181, F.S.; providing enterprise-zone jobs credits for businesses within jurisdiction of a rural local government; amending s. 290.0055, F.S.; providing a condition for designating communities within the jurisdiction of a rural local

government as an enterprise zone; amending s. 420.507, F.S.; modifying powers of the Florida Housing Finance Corporation; providing an appropriation; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bense—

HB 1647—A bill to be entitled An act relating to motor vehicles dealers; providing definitions; prohibiting certain unfair or deceptive acts by such dealers; providing for the award of attorney's fees and court costs; repealing s. 320.27(9)(n), F.S.; relating to licensure sanctions for dealers who fail to disclose certain new vehicle damages to a purchaser; providing application; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bense—

HB 1649—A bill to be entitled An act relating to condominiums; amending s. 718.111, F.S.; providing that each individual owner, not the association, must bring any action for fraud or misrepresentation against a developer, sales agent, or broker; amending s. 718.116, F.S.; limiting the portion of an assessment that has been made but not collected which may be used as collateral for financing litigation or efforts to remedy construction defects; amending s. 718.203, F.S.; relieving the developer of liability for certain defects if the developer has met prescribed conditions; creating s. 718.3027, F.S.; requiring prelitigation disclosure to and approval by owners; amending s. 718.303, F.S.; placing limitations on certain legal actions that may be brought by the association or by a unit owner; amending s. 718.503, F.S.; providing requirements for developer disclosure in certain contracts for the sale or lease of a residential unit; amending s. 718.506, F.S.; abrogating the right to a cause of action against a developer for an oral representation or information that is not in the developer's promotional materials; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bense—

HB 1651—A bill to be entitled An act relating to restoring confidence in the judicial system; creating s. 43.291, F.S.; specifying membership composition and requirements of judicial nominating commissions; providing limitations; providing for terms; abolishing prior offices; providing for suspension or removal; requiring racial, ethnic, gender, and geographical diversity of commission memberships; repealing s. 43.29, F.S., relating to judicial nominating commissions; reenacting ss. 3, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35 of ch. 99-225, Laws of Florida, which amend ss. 44.104, 95.031, 90.407, 768.095, 768.075, 768.72, 768.73, 768.81, 324.021, 400.023, 400.029, and 400.629, F.S., and create ss. 47.025, 768.1257, 768.1256, 768.096, 768.0705, 768.36, 768.725, 768.735, 768.736, 768.737, and 768.098, F.S.; providing for voluntary trial resolution upon the agreement of parties to a civil dispute; providing for the appointment and compensation of a trial resolution judge; providing guidelines for conducting a voluntary trial resolution; providing for enforcement and appeal; providing for expedited trials; providing that certain venue provisions in a contract for improvement to real property are void; specifying appropriate venue for actions against resident contractors, subcontractors, sub-subcontractors, and materialmen; requiring the clerk of courts to report certain information on negligence cases to the Office of the State Courts Administrator; imposing a 12-year statute of repose on actions brought to recover for harm caused by products with a specified expected useful life; exempting certain categories of products from the statute of repose; imposing variable repose periods based on specific warranties by the manufacturer; providing an exception for certain injuries; providing for tolling under particular circumstances; specifying the date by which certain actions must be brought or be otherwise barred by the statute of repose; providing limitations on the admissibility of subsequent remedial measures; providing exceptions; requiring the finder of fact, in certain product defect actions, to consider circumstances that existed at

the time of manufacture; providing a government rules defense with respect to certain products liability actions; providing for rebuttable presumptions; providing an exception; providing an employer with a presumption against negligent hiring under specified conditions in an action for civil damages resulting from an intentional tort committed by an employee; revising the conditions under which an employer is immune from civil liability for disclosing information regarding an employee to a prospective employer; providing a presumption against liability for criminal acts for convenience business under specified conditions; delineating the duty owed to trespassers by a person or organization owning or controlling an interest in real property; providing definitions; providing for the avoidance of liability to discovered and undiscovered trespassers under described circumstances; providing immunity from certain liability arising out of the attempt to commit or the commission of a felony; prohibiting a plaintiff from recovering damages if plaintiff is more than a specified percentage at fault due to the influence of alcoholic beverages or drugs; providing for evidentiary standards for an award of punitive damages; revising provisions with respect to claims for punitive damages in civil actions; requiring clear and convincing evidence of gross negligence or intentional misconduct to support the recovery of such damages; providing definitions; providing criteria for the imposition of punitive damages with respect to employers, principals, corporations, or other legal entities for the conduct of an employee or agent; providing for the application of the section; revising provisions with respect to limitations on punitive damages; providing monetary limitations; providing for the effect of certain previous punitive damages awards; providing for the application of the section; providing that ss. 768.72(2)-(4), 768.725, and 768.73, F.S., relating to punitive damages, are inapplicable to specified causes of action; limiting the amount of punitive damages that may be awarded to a claimant in certain civil actions involving abuse or arising under ch. 400, F.S.; providing that ss. 768.725 and 768.73, F.S., relating to punitive damages, do not apply to intoxicated defendants; providing for application of punitive damages statutes to arbitration; providing for the apportionment of damages on the basis of joint and several liability when a party's fault exceeds certain percentages; limiting the applicability of joint and several liability based on the amount of damages; providing for the allocation of fault to a nonparty; requiring that such fault must be proved by a preponderance of the evidence; providing the lessor of a motor vehicle under certain rental agreements shall be deemed the owner of the vehicle for the purpose of determining liability for the operation of the vehicle within certain limits; providing for the liability of the owner of a motor vehicle who loans the vehicle to certain users; limiting the liability of employers in a joint employment relationship under specific circumstances; providing exceptions and limitations; relating to actions brought on behalf of nursing home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; relating to actions brought on behalf of assisted living care facility residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; relating to actions brought on behalf of adult family care home residents; providing that a party to any such action may not recover attorney's fees unless parties submit to mediation; specifying requirements for such mediation; providing for application; providing a standard for an award of punitive damages; requiring the Office of Program Policy Analysis and Government Accountability to contract with an actuarial firm to conduct an actuarial analysis of expected reductions in judgments and related costs resulting from litigation reforms; specifying the basis and due date for the actuarial report; providing a declaration of intent pertaining to the constitutional prerogatives of the judiciary; providing for severability; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Rich—

HB 1653—A bill to be entitled An act relating to the Student Achievement Guarantee in Education (SAGE) Act; providing a short

title; establishing the Student Achievement Guarantee in Education program to facilitate improvements in the academic achievement of low-income students; providing criteria for participation in the program; establishing an application process; requiring the Department of Education to review and approve applications based on standards adopted by the department; establishing SAGE program requirements; requiring a contract between the Department of Education and the district school board of each participating school district; providing for the award of funds; providing for annual reviews by the department; requiring a report to the Legislature; authorizing the adoption of rules; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Clarke—

HB 1655—A bill to be entitled An act relating to transferring and reassigning divisions, functions, and responsibilities of the Department of Labor and Employment Security; providing for a type two transfer of the Division of Workers' Compensation and the Office of the Judges of Compensation Claims to the Department of Insurance; providing for a type two transfer of workers' compensation medical services to the Agency for Health Care Administration; providing for a type two transfer of workers' compensation rehabilitation and reemployment services to the Department of Education; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing for the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation by a type two transfer; providing for the transfer of the Public Employees Relations Commission to the Department of Management Services by a type two transfer; providing for the transfer of the Office of Information Systems to the State Technology Office by a type two transfer; authorizing the Department of Banking and Finance, in conjunction with the Office of the Attorney General, to use unexpended funds to settle certain claims; providing for the continuation of contracts or agreements of the Department of Labor and Employment Security; providing for a successor department, agency, or entity to be substituted for the Department of Labor and Employment Security as a party in interest in pending proceedings; exempting specified state agencies, on a temporary basis, from provisions relating to procurement of property and services and leasing of space; authorizing specified state agencies to develop temporary emergency rules relating to the implementation of this act; amending s. 20.13, F.S.; providing for a Division of Workers' Compensation in the Department of Insurance; amending s. 440.02, F.S.; providing a definition for the term "agency"; conforming definitions of "department" and "division" to the transfer of the Division of Workers' Compensation to the Department of Insurance; amending ss. 440.102 and 440.125, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.13, F.S., relating to medical services and supplies under the workers' compensation law; reassigning certain functions from the Division of Workers' Compensation to the Agency for Health Care Administration; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.15, F.S.; providing for the agency to participate in the establishment and use of a uniform permanent impairment rating schedule; correcting a cross reference; amending s. 440.207, F.S.; conforming a departmental reference; amending s. 440.25, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.385, F.S.; deleting obsolete provisions; conforming departmental references relating to the Florida Self-Insurance Guaranty Association, Inc.; correcting a cross reference; amending s. 440.44, F.S.; conforming provisions; amending s. 440.4416, F.S.; reassigning the Workers'

Compensation Oversight Board to the Department of Insurance; amending s. 440.45, F.S.; reassigning the Office of the Judges of Compensation Claims to the Department of Insurance; amending s. 440.49, F.S.; reassigning responsibility for a report on the Special Disability Trust Fund to the Department of Insurance; amending s. 440.491, F.S.; conforming references based on the transfer of rehabilitation and reemployment services to the Department of Education; amending ss. 440.525 and 440.59, F.S.; conforming agency references to reflect the transfer of programs from the Department of Labor and Employment Security to the Department of Insurance; amending s. 443.012, F.S.; providing for the Unemployment Appeals Commission to be created within the Agency for Workforce Innovation rather than the Department of Labor and Employment Security; conforming provisions; amending s. 443.036, F.S.; conforming the definition of "commission" to the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 447.203, F.S.; clarifying the definition of professional employee; amending s. 447.205, F.S.; conforming provisions to reflect the transfer of the Public Employees Relations Commission to the Department of Management Services and deleting obsolete provisions; amending s. 447.208, F.S.; clarifying the procedure for appeals, charges, and petitions; amending s. 447.305, F.S., relating to the registration of employee organizations; providing for the Public Employees Relations Commission to share registration information with the Department of Insurance; amending s. 447.307, F.S.; authorizing the commission to modify existing bargaining units; amending s. 447.503, F.S.; specifying procedures when a party fails to appear for a hearing; amending s. 447.504, F.S.; authorizing the commission to stay certain procedures; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of "department" to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; amending s. 627.0915, F.S.; conforming departmental references to changes made by the act; amending ss. 110.205, 112.19, 112.191, 121.125, 122.03, 238.06, 440.10, 440.104, and 440.14, F.S., to conform; repealing s. 20.171, F.S., relating to establishment and the authority and organizational structure of the Department of Labor and Employment Security; providing for severability; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Jordan—

HB 1657—A bill to be entitled An act relating to fictitious name registration; amending s. 865.09, F.S.; providing for notification to the Division of Corporations of the Department of State of certain information when a business location changes; providing for forms; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kallinger—

HB 1659—A bill to be entitled An act relating to electrologists; amending s. 478.42, F.S.; redefining the term "electrolysis" to include the use of lasers or light-based devices for hair removal; amending s. 478.49, F.S.; requiring training in the use of such devices; requiring general supervision by a physician when such devices are used; amending s. 478.50, F.S.; revising criteria for training programs; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Mealar—

HB 1661—A bill to be entitled An act relating to scholarships for students with disabilities; amending s. 228.041, F.S.; providing a

definition; amending s. 229.05371, F.S.; creating the scholarship program for students with disabilities; providing for eligibility; establishing obligations of school districts and the Department of Education; establishing criteria for private school eligibility; establishing obligations of program participants; providing for funding and payment; authorizing the State Board of Education to adopt rules; amending ss. 228.121, 230.2316, 230.23161, 232.246, 240.116, and 414.125, F.S.; correcting cross references; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Harrell—

HB 1663—A bill to be entitled An act relating to seaport security; amending s. 311.12, F.S.; providing for minimum seaport security standards; authorizing additional security measures under certain circumstances; providing for implementation by April 30, 2002; providing for annual inspections; amending s. 790.06, F.S.; providing that concealed firearms may not be permitted on a port facility; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Wishner—

HB 1665—A bill to be entitled An act relating to motor vehicles and driver licensing; amending s. 320.01, F.S.; defining the term “extended registration period”; amending s. 320.055, F.S.; authorizing an extended registration period for certain motor vehicles; amending s. 320.06, F.S.; providing terms and conditions for the issuance of extended registrations; amending s. 320.07, F.S.; providing for expiration of an extended registration; providing for a refund under certain circumstances; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Wishner—

HB 1667—A bill to be entitled An act relating to Daylight Saving Time; exempting the State of Florida and its political subdivisions from federal law which establishes a uniform time for an advance to Daylight Saving Time; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Paul and Gibson—

HB 1669—A bill to be entitled An act relating to water management; creating the Harris Chain of Lakes Restoration Council; providing for membership, powers, and duties; providing for a report to the Legislature; providing for an advisory group to the council; requiring the St. Johns River Water Management District to provide staff for the council; providing for award of contracts subject to an appropriation of funds; providing for a Harris Chain of Lakes restoration program; providing for a demonstration restoration project; providing appropriations; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Gardiner—

HB 1671—A bill to be entitled An act relating to home-invasion robbery; amending s. 812.135, F.S.; providing additional offense classifications and revising the penalties for home-invasion robbery; providing that it is a life felony to commit a home-invasion robbery in the course of which a firearm or other deadly weapon is carried; providing that it is a first-degree felony punishable by a term of imprisonment not exceeding life imprisonment to commit a home-invasion robbery in the course of which a weapon is carried; providing penalties; reenacting s. 943.325(1)(a), F.S., relating to blood specimen testing for DNA analysis, to incorporate the amendment made by this act in a reference; amending s. 921.0022, F.S., relating to the criminal punishment code offense severity chart, to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kyle—

HB 1673—A bill to be entitled An act relating to criminal penalties; providing a short title; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence involving physical injury to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic battery; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers’ intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Gelber—

HB 1675—A bill to be entitled An act relating to assault and battery; creating s. 784.074, F.S.; providing enhanced penalties for the offenses of assault, battery, aggravated assault, or aggravated battery on a security officer licensed by the Department of State or on an investigator employed by the Bureau of Regulation and Enforcement of the Department of State; providing definitions; specifying minimum terms of imprisonment; providing that a person convicted of a violation under the act may not have adjudication of guilt or imposition of sentence suspended or withheld; providing that such person is ineligible for early release, except under certain circumstances; amending s. 784.081, F.S.; increasing penalties for an assault or battery committed against a municipal or county parks or recreation department employee; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Gelber—

HJR 1677—A joint resolution proposing the creation of Section 19 of Article X of the State Constitution, relating to windstorm insurance, to limit rate increases allowed for windstorm insurance and to authorize the Legislature to provide by general law for rate increases in excess of the limit.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Miller—

HB 1679—A bill to be entitled An act relating to sale of recreational facilities; prohibiting an owner of certain recreational facilities from selling or destroying such facilities under certain circumstances; providing requirements and procedures for selling such facilities; providing exceptions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Miller—

HB 1681—A bill to be entitled An act relating to pest control operators; amending s. 482.021, F.S.; defining the term “new construction”; amending s. 482.051, F.S.; providing for the issuance of stop-work orders where fumigations are being performed in certain situations; creating s. 482.0815, F.S.; requiring licensees to hold a permit before performing preventive termite treatments for new construction; providing procedures for the issuance of permits and providing penalties for specified violations; providing for the adoption of rules; amending s. 482.091, F.S.; requiring certain cardholders to obtain specified classroom training; amending s. 482.132, F.S.; providing

alternative educational requirements for pest control operator's certificate applicants; amending s. 482.161, F.S.; limiting the application of sanctions for violations by licensees with multiple business locations; repealing s. 482.211(11), F.S., which provides an exemption from regulation for certain yard workers; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Miller—

HB 1683—A bill to be entitled An act relating to unlawful activities involving driver's licenses and identification cards; amending s. 322.212, F.S.; prohibiting a person from knowingly selling, manufacturing, or delivering, or offering to sell, manufacture, or deliver, any blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license or identification card or any instrument in the similitude of such license or such card; providing a penalty; authorizing investigations of violations of this section; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Slosberg—

HB 1685—A bill to be entitled An act relating to proceeds from the tobacco settlement; amending s. 569.21, F.S.; requiring that the Comptroller receive representations from the tobacco industry which are used to calculate the annual payments; requiring the Comptroller to verify such representations; requiring that the Auditor General review the verification of representations from the tobacco industry; redesignating the Comptroller as the Chief Financial Officer to conform to a revision of the State Constitution; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Slosberg—

HB 1687—A bill to be entitled An act relating to teenage driver education; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Atwater—

HB 1689—A bill to be entitled An act relating to teacher recruitment; creating the Transition to Teaching Program; encouraging participation by postsecondary education institutions and organizations that represent eligible employees or employ eligible applicants; providing for grant proposals and applications; requiring an evaluation; authorizing certain activities and placing limitations on expenditures; providing for repayment of certain stipends; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Atwater—

HB 1691—A bill to be entitled An act relating to law enforcement officers; amending s. 817.564, F.S.; providing an exemption from civil or criminal liability for the sale of imitation controlled substances by law enforcement officers and other persons acting at their direction; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Alexander—

HB 1693—A bill to be entitled An act relating to natural resource management; creating s. 163.2501, F.S.; establishing policy related to decisions affecting land and water management; amending s. 163.3161, F.S.; establishing intent with respect to the implementation of growth management laws; amending s. 163.3177, F.S.; mandating the inclusion of an economic element in comprehensive plans; amending s. 288.063, F.S.; correcting a cross reference, to conform; amending s. 163.3184,

F.S.; establishing additional standards for approval of comprehensive plans and amendments; amending s. 163.3201, F.S.; establishing intent that economic and environmental considerations be balanced when implementing comprehensive plans; amending s. 380.021, F.S.; establishing intent that decisions relating to land and water management take into account both economic and environmental considerations; amending s. 380.06, F.S.; requiring that certain rules provide for balancing economic and environmental considerations; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Alexander—

HB 1695—A bill to be entitled An act relating to public records; amending s. 229.57, F.S.; providing an exemption from public records requirements for information in the possession of the Department of Education in connection with annual student assessments which identifies teachers or other instructional personnel or discloses the effects of instruction by such persons; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Weissman—

HB 1697—A bill to be entitled An act relating to students in community college aviation programs; creating a financial aid program for such students; providing for loans and grants; providing eligibility criteria; prescribing duties of community colleges and of the Division of Community Colleges; providing an appropriation; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Waters—

HB 1699—A bill to be entitled An act relating to the Florida Windstorm Underwriting Association; amending s. 627.351, F.S.; providing exemptions from the public records law for specified records of the association; providing an exemption for certain meetings of the members of the board of directors of the association; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Smith—

HB 1701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; exempting from disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information pertaining to county and municipal code enforcement officers and their families; providing for future repeal and prior legislative review of these exemptions; providing a statement of public necessity for the exemptions; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Child & Family Security; Representative Detert—

HB 1703—A bill to be entitled An act relating to the Interstate Compact on Adoption and Medical Assistance; creating s. 409.406, F.S.; providing authority for the Department of Children and Family Services to enter into interstate agreements with other participating states for medical and other necessary services for special needs children; establishing procedures for interstate delivery of adoption assistance and related services and benefits; providing for the adoption of administrative rules; creating s. 409.407, F.S.; prohibiting expansion of Florida's financial commitment; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Crime Prevention, Corrections & Safety; Representative Bilirakis—

HB 1705—A bill to be entitled An act relating to imposition of a death sentence; creating s. 921.1415, F.S.; providing that only criminals who were 17 years of age or older at the time the crime was committed may be sentenced to death; amending s. 775.082, F.S., to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1707—A bill to be entitled An act relating to energy management; amending s. 255.257, F.S.; removing provisions which direct the Department of Management Services to provide for an energy management plan for state agencies, and which require state agencies to submit certain energy data to the department; providing that the department may develop such a plan; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1709—A bill to be entitled An act relating to boiler safety; repealing s. 554.106, F.S., which requires the Department of Insurance to employ deputy inspectors under ch. 554, F.S., the Boiler Safety Act; amending s. 554.105, F.S., to conform; amending s. 554.108, F.S., to conform; providing that each inspection of a boiler under the Boiler Safety Act shall be conducted by a special inspector; amending s. 554.111, F.S.; eliminating certificate inspections and other specified inspections conducted by the department and fees therefor; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1711—A bill to be entitled An act relating to construction management for nonstate entities; repealing s. 255.31(3), F.S.; eliminating the authority of the Department of Management Services to enter into contracts with nonstate entities for construction management services; repealing s. 235.017(2)(e), F.S., to conform; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Lacasa—

HB 1713—A bill to be entitled An act relating to state employee benefits; amending s. 110.12315, F.S.; removing the repeal date for the schedule of copayments under the state employees' prescription drug program; deleting obsolete language; clarifying language; amending s. 110.1239, F.S.; removing the repeal date for provisions relating to determining the level of premiums and funding for the state group health insurance program; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1715—A bill to be entitled An act relating to the recreational user permit fee; amending s. 372.57, F.S.; revising provisions relating to the recreational user permit fee to hunt, fish, or otherwise use certain land leased from private owners; removing a provision that provides for reduction of the permit fee based on the prior year's landowner payment for certain property in the private landowner payment program; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1717—A bill to be entitled An act relating to the Division of Dairy Industry of the Department of Agriculture and Consumer Services; eliminating the Division of Dairy Industry; repealing ss. 570.40 and

570.41, F.S., relating to the powers and duties of the Division of Dairy Industry and the qualifications and duties of the director of the Division of Dairy Industry; amending ss. 20.14, 570.18, and 570.29, F.S., to conform; amending s. 570.50, F.S.; including the powers and duties of the Division of Dairy Industry within the powers and duties assigned to the Division of Food Safety of the Department of Agriculture and Consumer Services; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1719—A bill to be entitled An act relating to the Department of Management Services; amending s. 287.16, F.S.; revising language with respect to the powers and duties of the department; authorizing the department to contract for the maintenance of motor vehicles; deleting reference to special purpose aircraft with respect to an annual report to the Legislature; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1721—A bill to be entitled An act relating to sale of business opportunities; removing the Department of Agriculture and Consumer Services from any duties and responsibilities relating to sales of business opportunities; amending ss. 559.802, 559.803, 559.807, 559.813, and 559.815, F.S., to conform; repealing s. 559.801(2), F.S., defining department; repealing s. 559.805, F.S., relating to required filings and disclosure of certain information; repealing s. 559.813(2) and (8), F.S., relating to department authority to enter orders imposing certain penalties and department rulemaking authority; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1723—A bill to be entitled An act relating to ballroom dance studios; amending s. 205.1969, F.S.; removing a requirement for the issuance of an occupational license to a ballroom dance studio; amending s. 501.143, F.S.; eliminating the regulation of ballroom dance studios by the Department of Agriculture and Consumer Services, including the authority to seek penalties and to adopt rules; deleting registration requirements; providing that bonds or other security obtained to ensure refunds to customers will not be placed with the department; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Dockery—

HB 1725—A bill to be entitled An act relating to health studios; amending s. 205.1969, F.S.; removing a requirement for the issuance of an occupational license to a health studio; repealing ss. 501.012, 501.014, 501.015, and 501.016, F.S., relating to the regulation of health studios by the Department of Agriculture and Consumer Services; amending s. 501.0125, F.S., to correct a cross reference and delete unnecessary definitions; amending s. 501.013, F.S.; removing requirement of certain filings with the Department of Agriculture and Consumer Services by certain entities exempt from health studio requirements; correcting a cross reference; amending s. 501.017, F.S.; requiring each health studio to provide certain notice in its contracts; amending s. 501.019, F.S.; correcting a cross reference; deleting criminal and administrative penalties for violating provisions repealed by this act; removing enforcement authority of the Department of Agriculture and Consumer Services relating to health studios; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Maygarden—

HB 1727—A bill to be entitled An act relating to community care for the elderly; amending s. 430.203, F.S.; redefining the term "lead

agency”; removing the requirement of mandatory case management; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Ball—

HB 1729—A bill to be entitled An act relating to the Department of Corrections; transferring the Office for Certification and Monitoring of Batterers’ Intervention Programs from the Department of Corrections to the Department of Children and Family Services; amending ss. 741.32 and 741.325, F.S.; revising references to conform to the transfer of the office; amending s. 921.0024, F.S.; removing the Department of Corrections’ responsibility for preparing sentencing scoresheets; renumbering and amending s. 945.76, F.S.; transferring authority for certain fee assessment and collection from the Department of Corrections to the Department of Children and Family Services; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1731—A bill to be entitled An act relating to the transfer of criminal justice programs; amending ss. 938.01 and 943.25, F.S., relating to the Court Cost Clearing Trust Fund and criminal justice trust funds; preserving certain funding functions scheduled for repeal on July 1, 2001, relating to deposit of certain funds for use by the Department of Law Enforcement rather than the Department of Community Affairs; transferring the Criminal Justice Program from the Department of Community Affairs to the Department of Law Enforcement; transferring the Prevention of Domestic and Sexual Violence Program from the Department of Community Affairs to the Department of Children and Family Services and providing matching funds for the administration of such program; providing for transfer of funds; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1733—A bill to be entitled An act relating to the Department of Transportation; amending s. 341.302, F.S.; deleting provisions relating to the department’s responsibility for the handling of hazardous materials under the statewide rail program; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1735—A bill to be entitled An act relating to economic development; amending s. 288.106, F.S., relating to the tax refund program for qualified target industry businesses; revising requirements for application for certification as such business with respect to the number of new jobs at the business and projections by the Office of Tourism, Trade, and Economic Development of refunds based thereon; revising requirements relating to the tax refund agreement with respect to job creation and the time for filing of claims for refund; revising provisions relating to annual claims for refund; providing an application deadline; revising provisions relating to the order authorizing a tax refund; specifying that nothing in said section creates a presumption that a claim will be approved and paid; providing applicability to tax refund agreements and claims for refund executed prior to the effective date of the act; revising the agencies with which the office may verify information and to which the office may provide information; amending s. 288.980, F.S.; providing that grants by the office to support activities related to the retention of military installations potentially affected by closure or realignment must be from funds specifically appropriated therefor; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1737—A bill to be entitled An act relating to growth management; amending s. 163.3184, F.S.; clarifying language; providing for

compilation and transmittal by a local government of a list of persons who will receive an informational statement concerning the state land planning agency’s notice of intent to find a comprehensive plan or plan amendment in compliance or not in compliance; providing for rules; revising requirements relating to publication by the agency of its notice of intent; deleting a requirement that the notice be sent to certain persons; amending s. 163.3187, F.S.; correcting a reference; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1739—A bill to be entitled An act relating to the central voter file; amending s. 98.0975, F.S.; modifying requirements of the Division of Elections with respect to the information on persons included in the central voter file to be reported to the county supervisors of elections; eliminating the requirement for the division to annually contract with a private entity to provide list maintenance duties on the central voter file; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Maygarden—

HB 1741—A bill to be entitled An act relating to the Department of Children and Family Services; amending s. 39.3065, F.S.; adding Seminole County to list of counties whose sheriffs provide protective investigative services; amending s. 393.063, F.S.; modifying the definition of “support coordinator” in provisions relating to developmental disabilities; amending s. 393.0651, F.S.; removing requirement for support coordinator review of individual or family support plans; amending s. 414.045, F.S.; adding another category of families eligible for cash assistance, for federal reporting purposes; amending ss. 938.01 and 943.25, F.S.; providing for deposit of certain funds for use by the Department of Law Enforcement, rather than the Department of Community Affairs; providing for transfer of certain funds to the Department of Children and Family Services for the prevention of domestic and sexual violence; repealing s. 402.185, F.S., relating to certification forward of certain unused funds of the Department of Children and Family Services; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Ball—

HB 1743—A bill to be entitled An act relating to the elimination of the Juvenile Justice Advisory Board; repealing s. 985.401, F.S., which created the Juvenile Justice Advisory Board; amending ss. 20.316, 216.136, 985.227, 985.315, 985.317, and 985.404, F.S., to remove references to the Juvenile Justice Advisory Board; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Fiscal Responsibility Council; Representative Johnson—

HB 1745—A bill to be entitled An act relating to water and wastewater utilities; amending s. 367.021, F.S.; revising definitions; amending s. 367.022, F.S.; revising an exemption from regulation for small water and wastewater utilities; amending ss. 367.045 and 367.111, F.S.; deleting requirement for descriptions of service areas in water and wastewater utility certificates of authorization; deleting requirements relating to application for amended certificates of authorization to reduce or extend a utility’s existing service area; amending s. 367.121, F.S.; providing authority of the Public Service Commission to resolve territorial disputes involving water and wastewater utilities; providing considerations; amending s. 367.171, F.S.; authorizing counties to set rates and charges for certain exempt small water and wastewater utilities; providing applicability of specified administrative procedures; amending s. 288.0655, F.S.; correcting a cross reference; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

By the Committee on Crime Prevention, Corrections & Safety; Representative Bilirakis—

HB 1747—A bill to be entitled An act relating to controlled substances; amending s. 893.03, F.S.; adding materials, compounds, mixtures, or preparations containing certain limited quantities of hydrocodone to the substances listed under Schedule III as controlled substances; providing direction on which law appertains to the weighing of hydrocodone for the purpose of charging trafficking in hydrocodone; amending s. 893.135, F.S.; providing penalties for trafficking in certain mixtures containing hydrocodone; clarifying legislative intent regarding the weighing of a mixture or mixtures containing certain controlled substances; providing findings regarding judicial constructions of legislative intent; reenacting s. 893.02(14), F.S., relating to a definition of mixtures, to incorporate the amendment in s. 893.135, F.S., in reference thereto; reenacting s. 921.0022(3)(b), (c), and (e), F.S., relating to the offense severity ranking chart in the Criminal Punishment Code, to incorporate the amendment in s. 893.03, F.S., in references thereto; providing an effective date.

First reading by publication (Art. III, s. 7, Florida Constitution).

HR 9005—Adopted earlier today

By Representative Benson—

HR 9007—A resolution designating Representative Jerry G. Melvin as “Dean of the Florida House of Representatives.”

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Fasano—

HR 9009—A resolution commending The James Madison Institute: A Foundation for Florida’s Future.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Bense—

HR 9011—A resolution designating March 29, 2001, as F.S.U. Day.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representatives Baker, Gibson, Brummer, Johnson, Cusack, and Russell—

HR 9013—A resolution commemorating March 27, 2001, as Lake County Day.

First reading by publication (Art. III, s. 7, Florida Constitution).

Reference

HB 1033—Referred to the Committees on State Administration; Transportation; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1085—Referred to the Committees on Natural Resources & Environmental Protection; General Government Appropriations; and Council for Ready Infrastructure.

HB 1087—Referred to the Committees on Tourism; Business Regulation; and Council for Competitive Commerce.

HB 1089—Referred to the Committees on Business Regulation; Judicial Oversight; and Council for Smarter Government.

HB 1091—Referred to the Committees on Transportation; Transportation & Economic Development Appropriations; and Council for Ready Infrastructure.

HB 1093—Referred to the Committees on General Education; Education Appropriations; and Council for Lifelong Learning.

HB 1095—Referred to the Committees on State Administration; Crime Prevention, Corrections & Safety; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1097—Referred to the Committee on Business Regulation; and Council for Smarter Government.

HB 1099—Referred to the Committees on Transportation; Local Government & Veterans Affairs; Fiscal Policy & Resources; and Council for Ready Infrastructure.

HB 1101—Referred to the Committees on Insurance; Judicial Oversight; and Council for Ready Infrastructure.

HB 1103—Referred to the Committees on Insurance; State Administration; and Council for Competitive Commerce.

HB 1105—Referred to the Committees on Insurance; State Administration; Fiscal Policy & Resources; and Council for Competitive Commerce.

HB 1107—Referred to the Committees on Crime Prevention, Corrections & Safety; Criminal Justice Appropriations; and Council for Competitive Commerce.

HB 1109—Referred to the Committees on Information Technology; Education Appropriations; and Council for Ready Infrastructure.

HB 1111—Referred to the Committees on Economic Development & International Trade; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1113—Referred to the Committee on Claims; and Procedural & Redistricting Council.

HB 1115—Referred to the Committee on Local Government & Veterans Affairs.

HB 1117—Referred to the Committee on State Administration; and Council for Smarter Government.

HB 1119—Referred to the Committees on Natural Resources & Environmental Protection; Local Government & Veterans Affairs; and Council for Ready Infrastructure.

HB 1121—Referred to the Committees on Local Government & Veterans Affairs; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1123—Referred to the Committee on Crime Prevention, Corrections & Safety; and Council for Healthy Communities.

HB 1125—Referred to the Committees on Local Government & Veterans Affairs; and Natural Resources & Environmental Protection.

HB 1127—Referred to the Committees on Local Government & Veterans Affairs; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1129—Referred to the Committees on Colleges & Universities; Health Regulation; Education Appropriations; and Council for Lifelong Learning.

HB 1131—Referred to the Committees on State Administration; Crime Prevention, Corrections & Safety; Criminal Justice Appropriations; and Council for Smarter Government.

HB 1133—Referred to the Committee on Crime Prevention, Corrections & Safety; and Council for Healthy Communities.

HB 1135—Referred to the Committees on State Administration; Judicial Oversight; and Council for Smarter Government.

HB 1137—Referred to the Committees on Transportation; Agriculture & Consumer Affairs; Crime Prevention, Corrections & Safety; and Council for Ready Infrastructure.

HB 1139—Referred to the Committees on Business Regulation; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1141—Referred to the Committees on State Administration; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1143—Referred to the Committees on Banking; Judicial Oversight; and Council for Competitive Commerce.

HB 1147—Referred to the Committees on Insurance; State Administration; and Council for Competitive Commerce.

HB 1149—Referred to the Committees on Education Innovation; Education Appropriations; and Council for Lifelong Learning.

HB 1151—Referred to the Committees on State Administration; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1153—Referred to the Committees on Health Regulation; Judicial Oversight; and Council for Healthy Communities.

HB 1155—Referred to the Committees on Agriculture & Consumer Affairs; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1157—Referred to the Committees on Banking; Judicial Oversight; and Council for Competitive Commerce.

HB 1159—Referred to the Committees on Education Innovation; Fiscal Responsibility Council; and Council for Lifelong Learning.

HM 1161—Referred to the Committee on Local Government & Veterans Affairs; and Council for Smarter Government.

HB 1163—Referred to the Committees on Business Regulation; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1165—Referred to the Committees on Natural Resources & Environmental Protection; Local Government & Veterans Affairs; and Council for Ready Infrastructure.

HB 1167—Referred to the Committees on Rules, Ethics & Elections; General Government Appropriations; and Procedural & Redistricting Council.

HB 1169—Referred to the Committees on State Administration; Crime Prevention, Corrections & Safety; and Council for Healthy Communities.

HB 1171—Referred to the Committees on Fiscal Policy & Resources; Judicial Oversight; and Fiscal Responsibility Council.

HB 1173—Referred to the Committee on Transportation; and Council for Ready Infrastructure.

HB 1175—Referred to the Committees on Agriculture & Consumer Affairs; Crime Prevention, Corrections & Safety; and Council for Competitive Commerce.

HM 1177—Referred to the Committee on Natural Resources & Environmental Protection; and Council for Ready Infrastructure.

HB 1179—Referred to the Committees on Education Innovation; Colleges & Universities; Education Appropriations; and Council for Lifelong Learning.

HB 1181—Referred to the Committee on Claims; and Procedural & Redistricting Council.

HB 1183—Referred to the Committee on Local Government & Veterans Affairs.

HB 1185—Referred to the Committees on Transportation; State Administration; and Council for Ready Infrastructure.

HB 1187—Referred to the Committees on Crime Prevention, Corrections & Safety; Judicial Oversight; and Council for Healthy Communities.

HB 1189—Referred to the Committees on Local Government & Veterans Affairs; Natural Resources & Environmental Protection; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1191—Referred to the Committees on Local Government & Veterans Affairs; and Business Regulation.

HB 1193—Referred to the Committees on Education Innovation; State Administration; and Council for Lifelong Learning.

HB 1195—Referred to the Committee on Claims; and Procedural & Redistricting Council.

HB 1197—Referred to the Committees on State Administration; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1199—Referred to the Council for Lifelong Learning.

HB 1201—Referred to the Committees on Health Promotion; Insurance; and Council for Smarter Government.

HB 1203—Referred to the Committees on Insurance; Transportation; Child & Family Security; and Council for Competitive Commerce.

HB 1205—Referred to the Committee on State Administration; and Council for Smarter Government.

HB 1207—Referred to the Committees on Business Regulation; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1209—Referred to the Committees on Insurance; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1211—Referred to the Committees on Health Promotion; Health & Human Services Appropriations; and Council for Healthy Communities.

HB 1213—Referred to the Committees on Health Promotion; Insurance; Health & Human Services Appropriations; and Council for Healthy Communities.

HB 1215—Referred to the Committees on Economic Development & International Trade; Fiscal Policy & Resources; and Council for Competitive Commerce.

HB 1217—Referred to the Committees on State Administration; Crime Prevention, Corrections & Safety; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1219—Referred to the Committees on Insurance; Fiscal Policy & Resources; and Council for Competitive Commerce.

HB 1221—Referred to the Committees on Natural Resources & Environmental Protection; General Government Appropriations; and Council for Ready Infrastructure.

HB 1223—Referred to the Committees on Business Regulation; Local Government & Veterans Affairs; and Council for Smarter Government.

HB 1225—Referred to the Committees on Economic Development & International Trade; Fiscal Policy & Resources; and Council for Competitive Commerce.

HB 1227—Referred to the Committees on Insurance; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1229—Referred to the Committees on Local Government & Veterans Affairs; Fiscal Policy & Resources; and Fiscal Responsibility Council.

HB 1231—Referred to the Committees on Crime Prevention, Corrections & Safety; Judicial Oversight; and Council for Healthy Communities.

HB 1233—Referred to the Committees on Child & Family Security; Health & Human Services Appropriations; and Fiscal Responsibility Council.

HB 1235—Referred to the Committees on Health Promotion; and Council for Healthy Communities.

HB 1237—Referred to the Committees on Colleges & Universities; Education Appropriations; and Council for Lifelong Learning.

HB 1239—Referred to the Committees on Transportation; Judicial Oversight; and Council for Ready Infrastructure.

HB 1241—Referred to the Committees on Workforce & Technical Skills; Health & Human Services Appropriations; and Fiscal Responsibility Council.

HB 1243—Referred to the Committee on Business Regulation; Fiscal Responsibility Council; and Council for Smarter Government.

HB 1245—Referred to the Committees on State Administration; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1247—Referred to the Committee on Rules, Ethics & Elections; and Procedural & Redistricting Council.

HB 1249—Referred to the Committee on State Administration; Fiscal Responsibility Council; and Council for Smarter Government.

HB 1251—Referred to the Committees on Judicial Oversight; Child & Family Security; Health & Human Services Appropriations; and Council for Smarter Government.

HB 1253—Referred to the Committees on Health Promotion; Insurance; and Council for Healthy Communities.

HB 1255—Referred to the Committees on Local Government & Veterans Affairs; Fiscal Policy & Resources; and Council for Smarter Government.

HB 1257—Referred to the Committees on Education Innovation; Education Appropriations; and Council for Lifelong Learning.

HB 1259—Referred to the Committees on Education Innovation; Education Appropriations; and Council for Lifelong Learning.

HB 1261—Referred to the Committees on Health Promotion; Insurance; Health & Human Services Appropriations; and Council for Healthy Communities.

HB 1263—Referred to the Committees on Natural Resources & Environmental Protection; General Government Appropriations; and Council for Ready Infrastructure.

HB 1265—Referred to the Committees on Natural Resources & Environmental Protection; General Government Appropriations; and Council for Ready Infrastructure.

HB 1323—Referred to the Procedural & Redistricting Council.

First Reading of Council and Committee Substitutes by Publication

By the Committee on Local Government & Veterans Affairs; Representative Argenziano—

CS/HB 41—A bill to be entitled An act relating to water and wastewater systems; repealing s. 13 of ch. 2000-350, Laws of Florida, which requires county rate proceedings to follow certain provisions of the Administrative Procedure Act; amending s. 350.0611, F.S.; requiring the Public Counsel to provide legal representation in proceedings before counties under certain circumstances; providing an effective date.

By the Committee on Child & Family Security; Representatives Lynn, Rich, and Bucher—

CS/HB 179—A bill to be entitled An act relating to child care facilities; amending s. 402.3055, F.S.; requiring validation of information provided by an applicant for a child care facility license; creating s. 402.3105, F.S.; requiring the Department of Children and Family Services to establish a database of information relating to violations, citations, and penalties imposed against child care facilities regulated by the state; specifying database capabilities and uses of information contained therein; requiring the department to establish and impose uniform penalties; providing an effective date.

By the Committee on Crime Prevention, Corrections & Safety; Representative Kilmer—

CS/HB 249—A bill to be entitled An act relating to disability in the line of duty; amending s. 112.18, F.S.; expanding the provisions of law

with respect to disability in the line of duty to include all law enforcement officers and certain correctional officers and correctional probation officers; providing an effective date.

By the Committee on Agriculture & Consumer Affairs; Representatives Bullard, Lerner, Gibson, Heyman, Brutus, Cantens, Holloway, Betancourt, Meadows, Garcia, Barreiro, Wilson, Gelber, Gottlieb, and Diaz de la Portilla—

CS/HB 255—A bill to be entitled An act relating to citrus canker eradication; amending s. 581.184, F.S.; revising requirements with respect to compensation for citrus trees removed as part of an eradication program; providing appropriations; directing the department to compensate certain owners of citrus trees removed as part of eradication programs; providing retroactive applicability; providing an effective date.

Reports of Councils and Standing Committees

Council Reports

Received March 20:

The Fiscal Responsibility Council recommends the following pass:
HB 251

The above bill was placed on the Calendar.

The Council for Smarter Government recommends the following pass:
HB 115
HB 469
HB 499

The above bills were placed on the Calendar.

Received March 21:

The Fiscal Responsibility Council recommends the following pass:
HB 45

The above bill was placed on the Calendar.

The Council for Smarter Government recommends the following pass:
HB 47, with 1 amendment

The above bill was placed on the Calendar.

Committee Reports

Received March 20:

The Committee on Colleges & Universities recommends the following pass:
HB 465

The above bill was referred to the Committee on Education Appropriations.

The Committee on Colleges & Universities recommends the following pass:
HB 443

The above bill was referred to the Committee on Fiscal Policy & Resources.

The Committee on Child & Family Security recommends the following pass:
CS/HB 203

The above bill was referred to the Committee on Juvenile Justice.

The Committee on Agriculture & Consumer Affairs recommends a committee substitute for the following:
HB 255

The above committee substitute was referred to the Committee on State Administration, subject to review under Rule 6.3, and, under the rule, HB 255 was laid on the table.

The Committee on Crime Prevention, Corrections & Safety recommends a committee substitute for the following:

HB 249

The above committee substitute was referred to the Committee on State Administration, subject to review under Rule 6.3, and, under the rule, HB 249 was laid on the table.

Received March 21:

The Committee on Crime Prevention, Corrections & Safety recommends the following pass:

HB 157

The above bill was referred to the Council for Competitive Commerce.

The Committee on Fiscal Policy & Resources recommends the following pass:

HB 83, with 1 amendment (fiscal note attached)

HB 145 (fiscal note attached)

HB 379 (fiscal note attached)

The above bills were referred to the Council for Competitive Commerce.

The Committee on Elder & Long-Term Care recommends the following pass:

HB 1003, with 2 amendments

The above bill was referred to the Council for Healthy Communities.

The Committee on Fiscal Policy & Resources recommends the following pass:

HB 69 (fiscal note attached)

The above bill was referred to the Council for Healthy Communities.

The Committee on Fiscal Policy & Resources recommends the following pass:

CS/HB 453 (fiscal note attached)

The above bill was referred to the Council for Ready Infrastructure.

The Committee on Local Government & Veterans Affairs recommends a committee substitute for the following:

HB 41

The above committee substitute was referred to the Council for Ready Infrastructure, subject to review under Rule 6.3, and, under the rule, HB 41 was laid on the table.

The Committee on Agriculture & Consumer Affairs recommends the following pass:

HB 963

The above bill was referred to the Committee on Fiscal Policy & Resources.

The Committee on Economic Development & International Trade recommends the following pass:

HB 967

The above bill was referred to the Committee on Fiscal Policy & Resources.

The Committee on Banking recommends the following pass:
HB 991, with 1 amendment

The above bill was referred to the Committee on General Government Appropriations.

The Committee on Fiscal Policy & Resources recommends the following pass:

HB 201 (fiscal note attached)

The above bill was referred to the Committee on General Government Appropriations.

The Committee on Fiscal Policy & Resources recommends the following pass:

HB 489 (fiscal note attached)

The above bill was referred to the Committee on Transportation & Economic Development Appropriations.

The Committee on Banking recommends the following pass:

HB 959

The above bill was referred to the Committee on Judicial Oversight.

The Committee on Crime Prevention, Corrections & Safety recommends the following pass:

HB 285, with 3 amendments

HB 569, with 1 amendment

The above bills were referred to the Committee on Judicial Oversight.

The Committee on Crime Prevention, Corrections & Safety recommends the following pass:

HB 811

The above bill was referred to the Committee on Juvenile Justice.

The Committee on Child & Family Security recommends the following pass:

HB 599, with 2 amendments

The above bill was referred to the Committee on State Administration.

The Committee on Crime Prevention, Corrections & Safety recommends the following pass:

HB 259

The above bill was referred to the Committee on Transportation.

The Committee on Child & Family Security recommends a committee substitute for the following:

HB 179

The above committee substitute was referred to the Committee on Information Technology, subject to review under Rule 6.3, and, under the rule, HB 179 was laid on the table.

Excused

Rep. Allen until 3:18 p.m.; Rep. Johnson until 2:21 p.m.

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 6:40 p.m., to reconvene at 1:30 p.m., Thursday, March 22.

**Pages and Messengers
for the week of
March 19-23**

PAGES—Katherine A. Barnhart, Palm Beach; Ashley Burton, Palmetto; Christine Suzanne Cosson, Lake Butler; Meghan Flanagan, Bradenton; Douglas Haskins, Boca Raton; Laura Christine Horne, Orange Park; Jasmyne Nicole James, Tallahassee; Jonathan Russell Kendrick, Carrabelle; Carolyn M. Kulb, Pensacola; Jeffrey Laman, Clermont; Travis Vincent Lockley, Jacksonville; Clayton C. McKendree, Tampa; Bryce David Melvin, Marianna; Eric R. Mercado, Valrico; David Lee Michaelson, Hernando; Samuel Neimeiser, Tallahassee; David Paulk, Jacksonville; Stephen B. Phillips, Sarasota; Lindsay Reidenbach, Ponte Vedra Beach; James “J.R.” Rollins, Tallahassee; G. T. Wharton, Jacksonville.

MESSENGERS—John R. F. M. Allen, Tallahassee; Kristina Argo, Jupiter; Erin Brender, Lake Mary; Russ Breslow, Tampa; Sherer Byrd, Plant City; Brett T. Dioguardi, Tequesta; Angela Nicole Dodd, New Port Richey; Catherine Eileen Hale, Lake Placid; Stephanie Haskins, Boca Raton; Jacob Hawkes, Tallahassee; Ryan Q. Keelan, Sarasota; Marcus Sterling Kendrick, Carrabelle; David H. Korn, Jacksonville; Ashley Leland, Lantana; Ryan Marshall, Tampa; Mallory W. Nichols, St. Petersburg; Laurel Lee Sherer, Brewton, AL; Beth Spratt, LaBelle; Delsha Stewart, Thonotosassa; Robby Wallace, Tampa.