

CHAPTER 99-240

Committee Substitute for Committee Substitute for Senate Bill No. 230

An act relating to governmental reorganization; amending s. 20.15, F.S.; clarifying duties of the Deputy Commissioner for Educational Programs; creating the position of Deputy Commissioner for Technology and Administration and providing powers, duties, responsibilities, and functions; creating the Division of Technology; authorizing the Commissioner of Education to reorganize portions of the Department of Education; providing limitations; providing for future repeal; amending s. 20.171, F.S.; creating s. 443.1716, F.S.; requiring the Department of Labor and Employment Security to contract with consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages reports; providing conditions; requiring consent from the credit applicant; prescribing information that must be included in the written consent; providing for confidentiality; limiting use of the information released; providing for termination of contracts under certain circumstances; defining the term "creditor"; requiring the department to establish minimum audit, security, net worth, and liability insurance standards and other requirements it considers necessary; providing that any revenues generated from a contract with a consumer reporting agency must be used to pay the entire cost of providing access to the information; providing that any additional revenues generated must be paid into the department's trust fund for the administration of the unemployment compensation system; providing restrictions on the release of information under the act; defining the term "consumer-reporting" agency; amending s. 20.171, F.S.; providing that the department shall operate its programs in a decentralized fashion; providing for the appointment of assistant secretaries; providing for the powers and duties of such secretaries; providing for the creation of field offices; amending s. 110.205, F.S.; providing that certain employees of the department shall be in the Senior Management Service; providing that certain actions contemplated by the act shall be done within the available resources of the department; amending ss. 393.11, 410.0245, 627.212, 627.311, F.S., to conform; amending s. 442.006, F.S.; limiting the authority of the division to the public sector; amending s. 442.008, F.S.; prescribing duties of the division; amending s. 442.013, F.S.; authorizing penalties for public-sector employers; amending s. 442.019, F.S.; authorizing the division to seek compliance in circuit court against public-sector employers; creating s. 443.012, F.S.; recreating the Unemployment Appeals Commission; describing its duties; providing for the future repeal of ch. 442, F.S.; requiring the department to provide a report relating to the Division of Safety; transferring the brain and spinal cord injury program and the Office of Disability Determinations to the Department of Health; amending s. 400.805, F.S., to conform; transferring, renumbering, and amending ss. 413.465, 413.48, 413.49, 413.507, 413.604,

413.605, 413.613, F.S. to conform to the transfer of duties to the Department of Health; requiring the Division of Vocational Rehabilitation to enter into partnerships; providing legislative intent; providing definitions; creating the Occupational Access and Opportunity Commission; providing for membership; providing for appointment and terms; providing for reimbursement; providing for financial disclosure; providing powers and duties; directing the commission to develop and implement the federally required state vocational rehabilitation plan and to fulfill specified administrative functions; requiring the commission to contract with an administrative entity; providing for the assignment of staff; providing for the Occupational Access and Opportunity Corporation; providing powers and duties; providing for the use of property; providing for a board of directors; providing for an annual audit; providing for an annual report of the Occupational Access and Opportunity Commission; authorizing the commission to prepare the state plan, serve as the governing authority, and receive federal funds; requiring the Division of Vocational Rehabilitation to comply with transitional directives of the plan and, under certain circumstances, to transfer its powers, duties, functions, property, and funds to the commission; providing for quality assurance; providing remedies for conflict with federal law; designating the commission as the official state agency; providing for review by the Office of Program Policy Analysis and Government Accountability; transferring the Division of Blind Services to the Department of Education; repealing s. 440.05(8)(a), F.S., relating to fees charged by the Division of Workers' Compensation for nonconstruction elections; authorizing the department to offer voluntary reduction-in-force payment to certain employees; requiring the plan to meet specified criteria; requiring legislative review; providing an appropriation; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 443.1716, Florida Statutes, is created to read:

443.1716 Authorized electronic access to employer information.—

(1) Notwithstanding any other provisions of this chapter, the Department of Labor and Employment Security shall contract with one or more consumer-reporting agencies to provide creditors with secured electronic access to employer-provided information relating to the quarterly wages report submitted in accordance with the state's unemployment compensation law. Such access is limited to the wage reports for the preceding 16 calendar quarters.

(2) Creditors must obtain written consent from the credit applicant. Any such written consent from the credit applicant must be signed and must include the following:

(a) Specific notice that the individual's wage and employment history information will be released to a consumer-reporting agency;

(b) Notice that such release is made for the sole purpose of reviewing a specific application for credit made by the individual;

(c) Notice that the files of the Department of Labor and Employment Security containing wage and employment history information submitted by the individual or his or her employers may be accessed; and

(d) A listing of the parties authorized to receive the released information.

(3) Consumer-reporting agencies and creditors accessing information under this section must safeguard the confidentiality of such information and shall use the information only to support a single consumer credit transaction for the creditor to satisfy standard financial underwriting requirements or other requirements imposed upon the creditor, and to satisfy the creditor's obligations under applicable state or federal Fair Credit Reporting laws and rules governing this section.

(4) Should any consumer-reporting agency or creditor violate any provision of this section, the Department of Labor and Employment Security shall, upon thirty days written notice to the consumer-reporting agency, terminate the contract established between the department and the consumer-reporting agency resulting from this section.

(5) For purposes of this section, "creditor" has the same meaning as set forth in the federal Fair Debt Collection Practices Act, 15 U.S.C. s. 1692 et seq.

(6) The Department of Labor and Employment Security shall establish minimum audit, security, net-worth, and liability-insurance standards, technical requirements, and any other terms and conditions considered necessary in the discretion of the state agency to safeguard the confidentiality of the information released under this section and to otherwise serve the public interest. The Department of Labor and Employment Security shall also include, in coordination with any necessary state agencies, necessary audit procedures to ensure that these rules are followed.

(7) In contracting with one or more consumer-reporting agencies under this section, any revenues generated by such contract must be used to pay the entire cost of providing access to the information. Further, in accordance with federal regulations, any additional revenues generated by the department or the state under this section must be paid into the department's trust fund for the administration of the unemployment compensation system.

(8) The department may not provide wage and employment history information to any consumer-reporting agency before the consumer-reporting agency or agencies under contract with the department pay all development and other startup costs incurred by the state in connection with the design, installation, and administration of technological systems and procedures for the electronic-access program.

(9) The release of any information under this section must be for a purpose authorized by and in the manner permitted by the United States Department of Labor and any subsequent rules or regulations adopted by that department.

(10) As used in this section, the term "consumer-reporting agency" has the same meaning as that set forth in the Federal Fair Credit Reporting Act, 15 U.S.C. s. 1681a.

Section 2. Section 20.171, Florida Statutes, 1998 Supplement, 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.

(1) The head of the Department of Labor and Employment Security is the Secretary of Labor and Employment Security. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2)(a) There shall be two assistant secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The assistant secretaries shall be titled: Assistant Secretary for Finance and Administration and Assistant Secretary for Programs and Operations. The secretary may assign either assistant secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or field office. The Office of General Counsel and the Office of Inspector General are established as special offices and shall be headed by managers, each of whom shall be appointed by and serve at the pleasure of the secretary.

(b) There shall be five field offices involved in the administration and management of the department's programs. These field offices shall be responsible for the administration and management of any local offices within their jurisdiction. The five field offices shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary.

(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 110 and are included in the Senior Management Service in accordance with s. 110.205(2)(i). No other assistant secretaries or senior management positions at or above the division level, except those established in chapter 110, may be created without specific legislative authority.

(3)(a) The Assistant Secretary for Finance and Administration must possess a broad knowledge of the administrative, financial, and technical aspects of a complete cost-accounting system, budget preparation and management, and management information systems. The assistant secretary must be a proven, effective manager with specialized skills in financial planning and management. The assistant secretary shall ensure that financial information is processed in a timely, accurate, and complete manner.

(b) The assistant secretary is responsible for developing, monitoring, and enforcing policy and managing major technical programs. The responsibilities and duties of the position include, but are not limited to:

1. The following functional areas:

- a. Financial planning and management.
 - b. Information systems.
 - c. Accounting systems.
 - d. Administrative functions.
2. Implementing by no later than December 1, 1999:
- a. The preparation of detailed documentation of internal controls, including, but not limited to, general and application controls the department relies on for accurate and complete financial information.
 - b. The monthly reconciliation of the department's accounting, planning and budgeting, cash forecasting, and grants-in-aid program.
 - c. The development of a long-range information systems plan for the department which addresses the computing and information requirements of the five field and central offices. Financial, personnel, and technical resources must all be identified and quantified, as appropriate.
- (c) The Office of Administration, the Office of Management and Budget, and the Office of Information Systems are established and shall be headed by managers who are supervised by and responsible to the assistant secretary.
- (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 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. 20.059(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.

(4)(a) The Assistant Secretary for Programs and Operations must possess a broad knowledge of the administrative, financial, and technical aspects of the divisions within the department.

(b) The assistant secretary is responsible for developing, monitoring, and enforcing policy and managing major technical programs and supervising the Bureau of Appeals of the Division of Unemployment Compensation. The responsibilities and duties of the position include, but are not limited to, the following functional areas:

1. Workers' compensation management and policy implementation.

2. Jobs and benefits management and policy information.

3. Unemployment compensation management and policy implementation.

4. Blind services management and policy implementation.

5. Oversight of the five field offices and any local offices.

(5) The following divisions are established and shall be headed by division directors who shall be supervised by and shall be responsible to the Assistant Secretary for Programs and Operations:

(a) Division of Workforce and Employment Opportunities.

(b) Division of Unemployment Compensation.

(c) Division of Workers' Compensation.

(d) Division of Blind Services.

(e) Division of Safety, which is repealed July 1, 2000.

(f) Division of Vocational Rehabilitation.

(6) It is the intent of the Legislature that the functions and programs of the divisions are to be coordinated and integrated to the maximum extent practicably feasible. The department shall have flexibility to minimize costs in managing its contractual obligations with respect to existing leases. Further, it is the intent of the Legislature that all key programs be co-located in five field offices. The department is directed to develop a schedule to achieve this co-location, to the maximum extent feasible, by no later than July 1, 2001; provided, however, in those instances where the department has contractual obligations with respect to existing leases which expire after July 1, 2001, the department may phase in relocations to the five field offices as said leases expire. The following field offices are established and shall be headed by managers:

(a) Field Office I—Panama City, which shall serve the following counties: Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jefferson, Calhoun, Gulf, Liberty, Franklin, Wakulla, Leon, Gadsden, and Jefferson.

(b) Field Office II—Lake City, which shall serve the following counties: Madison, Taylor, Dixie, Lafayette, Suwannee, Hamilton, Columbia, Baker, Union, Bradford, Clay, St. Johns, Duval, Nassau, Alachua, Putnam, Marion, Levy, Gilchrist, and Flagler.

(c) Field Office III—Orlando, which shall serve the following counties: Volusia, Lake, Seminole, Orange, Sumter, Brevard, Osceola, Indian River, Highlands, St. Lucie, Okeechobee, and Martin.

(d) Field Office IV—Tampa, which shall serve the following counties: Citrus, Hernando, Pasco, Pinellas, Hillsborough, Polk, Hardee, Manatee, Sarasota, DeSoto, Charlotte, and Lee.

(e) Field Office V—Miami, which shall serve the following counties: Palm Beach, Glades, Hendry, Collier, Broward, Monroe, and Dade.

~~(2) The following divisions, and bureaus within the divisions, of the Department of Labor and Employment Security are established:~~

- ~~(a) Division of Jobs and Benefits.~~
- ~~(b) Division of Unemployment Compensation.~~
- ~~(c) Division of Administrative Services.~~
- ~~(d) Division of Workers' Compensation.~~
- ~~(e) Division of Vocational Rehabilitation.~~
- ~~(f) Division of Safety.~~
- ~~(g) Division of Blind Services.~~

~~(7)(3) The following commissions are established within the Department of Labor and Employment Security:~~

- ~~(a) Public Employees Relations Commission.~~
- ~~(b) Unemployment Appeals Commission.~~

~~(4)(a) There is created within the Department of Labor and Employment Security an Unemployment Appeals Commission, hereinafter referred to as the "commission." The commission shall consist of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. Not more than one appointee shall be a person who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employers; and not more than one such appointee shall be a person who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees.~~

~~1. The chair shall devote his or her entire time to commission duties and shall be responsible for the administrative functions of the commission.~~

~~2. The chair shall have the authority to appoint a general counsel and such other personnel as may be necessary to carry out the duties and responsibilities of the commission.~~

~~3. The chair shall have the qualifications required by law for a judge of the circuit court and shall not engage in any other business vocation or employment. Notwithstanding any other provisions of existing law, the chair shall be paid a salary equal to that paid under state law to a judge of the circuit court.~~

~~4. The remaining members shall be paid a stipend of \$100 for each day they are engaged in the work of the commission. The chair and other members shall also be reimbursed for travel expenses, as provided in s. 112.061.~~

5. ~~The total salary and travel expenses of each member of the commission shall be paid from the Employment Security Administration Trust Fund.~~

~~(b) Members shall serve for terms of 4 years each, except that, beginning July 1, 1977, the chair shall be appointed for a term of 4 years, one member for 3 years, and one member for 2 years. A vacancy for the unexpired term of a member shall be filled in the same manner as provided in this subsection for an original appointment. The presence of two members shall constitute a quorum for any called meeting of the commission.~~

~~(c) The commission is vested with all authority, powers, duties, and responsibilities relating to unemployment compensation appeal proceedings under chapter 443.~~

~~(d) The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the Department of Labor and Employment Security.~~

~~(e) The commission shall not be subject to control, supervision, or direction by the Department of Labor and Employment Security in the performance of its powers and duties under chapter 443.~~

~~(f) The commission 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 of the commission shall be allowed and paid as provided in s. 443.211 upon the presentation of itemized vouchers therefor, approved by the chair.~~

~~(g) The commission may charge, in its discretion, for publications, subscriptions, and copies of records and documents. Such fees shall be deposited in the Employment Security Administration Trust Fund.~~

~~(h) The commission shall maintain and keep open during reasonable business hours an office, which shall be provided in the Capitol or some other suitable building in the City of Tallahassee, for the transaction of its business, at which office its official records and papers shall be kept. The offices shall be furnished and equipped by the commission. The commission may hold sessions and conduct hearings at any place within the state.~~

~~(i) The commission shall prepare and submit a budget covering the necessary administrative cost of the commission.~~

~~(j) The commission shall have a seal for authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "State of Florida Unemployment Appeals Commission Seal"; and it shall be judicially noticed.~~

~~(k) The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it.~~

~~(l) Orders of the commission relating to unemployment compensation under chapter 443 shall be subject to review only by notice of appeal to the district courts of appeal in the manner provided in s. 443.151(4)(e).~~

Section 3. Paragraph (l) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

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:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health and Rehabilitative Services and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution: positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; those positions described in s. 20.171 as included in the Senior Management Service; and positions in the Department of Health and Rehabilitative Services that are assigned the duty of an Environmental Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 4. All actions required by this act shall be accomplished within available appropriations of the Department of Labor and Employment Security.

Section 5. Subsection (1) of section 393.11, Florida Statutes, 1998 Supplement, is amended to read:

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—When a person is mentally retarded and requires involuntary admission to residential services provided by the developmental services program of the Department of Children and Family Health and Rehabilitative Services, the circuit court of the county in which the person resides shall have jurisdiction to conduct a hearing and enter an order involuntarily admitting the person in order that the person may receive the care, treatment, habilitation, and rehabilitation which the person needs. For the purpose of identifying mental retardation, diagnostic capability shall be established in every program function of the department in the districts, including, but not limited to, programs provided by children and families; delinquency services; alcohol, drug abuse, and mental health; and economic services, and by ~~the Division of Vocational Rehabilitation of the Department~~

of Labor and Employment Security. Except as otherwise specified, the proceedings under this section shall be governed by the Florida Rules of Civil Procedure.

Section 6. Paragraph (a) of subsection (1) of section 410.0245, Florida Statutes, is amended to read:

410.0245 Study of service needs; report; multiyear plan.—

(1)(a) The Aging and Adult Services Program Office of the Department of ~~Children and Family Health and Rehabilitative Services~~ shall contract for a study of the service needs of the 18-to-59-year-old disabled adult population served or waiting to be served by the community care for disabled adults program. The Division of Vocational Rehabilitation of the Department of Labor and Employment Security and other appropriate state agencies shall provide information to the Department of ~~Children and Family Health and Rehabilitative Services~~ when requested for the purposes of this study.

Section 7. Section 442.006, Florida Statutes, 1998 Supplement, is amended to read:

442.006 Investigations by the division; refusal to admit; penalty.—

(1) The division shall make studies and investigations with respect to safety provisions and the causes of injuries in ~~public-sector places of employment~~ employments covered by this chapter, and shall make to the Legislature and ~~public-sector~~ employers and carriers such recommendations as it considers proper as to the best means of preventing injuries. In making such studies and investigations, the division may:

(a) Cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any ~~public-sector place of employment~~ place of employment covered by this chapter, or any agency or department of the state engaged in enforcing any laws to assure safety for employees.

(b) Allow any such agency or department to have access to the records of the division.

(2) The division and its authorized representatives may enter and inspect any ~~public-sector~~ place of employment at any reasonable time for the purpose of investigating compliance with this chapter and making inspections for the proper enforcement of this chapter. Any ~~public-sector~~ employer or owner who refuses to admit any member of the division or its authorized representative to any ~~public-sector~~ place of employment or to allow investigation and inspection pursuant to this paragraph is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The division by rule may adopt procedures for conducting investigations of public sector employers under this chapter.

Section 8. Section 442.008, Florida Statutes, 1998 Supplement, is amended to read:

442.008 Division authority.—The division shall:

(1) Investigate and prescribe what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents in every ~~public-sector employment~~ or place of employment; determine what suitable devices, safeguards, or other means of protection for the prevention of occupational diseases must be adopted or followed in any or all such ~~public-sector employments~~ or places of employment; and adopt reasonable rules for the prevention of accidents and the prevention of occupational diseases.

(2) Ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of ~~public-sector~~ places of employment as shall render them safe. Such rules and standards must be adopted in accordance with chapter 120.

(3) Assist employers in the development and implementation of employee safety training programs by contracting with professional safety organizations.

(4) Adopt rules prescribing recordkeeping responsibilities for public sector employers, which may include rules for maintaining a log and summary of occupational injuries, diseases, and illnesses and for producing on request a notice of injury and employee accident investigation records, and rules prescribing a retention schedule for such records.

Section 9. Section 442.013, Florida Statutes, is amended to read:

442.013 Public-sector employer penalties.—If any public-sector employer violates or fails or refuses to comply with this chapter or with any rule adopted by the division, in accordance with chapter 120, for the prevention of injuries, accidents, or occupational diseases or with any lawful order of the division in connection with this chapter, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by the division under this chapter for the prevention of accidents or occupational diseases, the division may assess against the public-sector employer a civil penalty of not less than \$100 nor more than \$5,000 for each day the violation, omission, failure, or refusal continues after the public-sector employer has been given notice thereof in writing. The total penalty for each violation may not exceed \$50,000. The division shall adopt rules requiring penalties commensurate with the frequency or severity, or both, of safety violations. A hearing must be held in the county where the violation, omission, failure, or refusal is alleged to have occurred, unless otherwise agreed to by the public-sector employer and authorized by the division.

Section 10. Section 442.019, Florida Statutes, is amended to read:

442.019 Compliance.—Failure of a public-sector an employer or a carrier to comply with this chapter or with any rules adopted under this chapter constitutes grounds for the division to seek remedies, including injunctive relief, for compliance by making appropriate filings with the Circuit Court of Leon County.

Section 11. Section 443.012, Florida Statutes, is created to read:

443.012 Unemployment Appeals Commission.—

(1) There is created within the Department of Labor and Employment Security an Unemployment Appeals Commission, hereinafter referred to as the "commission." The commission shall consist of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. Not more than one appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employers; and not more than one such appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employees.

(a) The chair shall devote his or her entire time to commission duties and shall be responsible for the administrative functions of the commission.

(b) The chair shall have the authority to appoint a general counsel and such other personnel as may be necessary to carry out the duties and responsibilities of the commission.

(c) The chair shall have the qualifications required by law for a judge of the circuit court and shall not engage in any other business vocation or employment. Notwithstanding any other provisions of existing law, the chair shall be paid a salary equal to that paid under state law to a judge of the circuit court.

(d) The remaining members shall be paid a stipend of \$100 for each day they are engaged in the work of the commission. The chair and other members shall also be reimbursed for travel expenses, as provided in s. 112.061.

(e) The total salary and travel expenses of each member of the commission shall be paid from the Employment Security Administration Trust Fund.

(2) Members shall serve for terms of 4 years each, except that, beginning July 1, 1977, the chair shall be appointed for a term of 4 years, one member for 3 years, and one member for 2 years. A vacancy for the unexpired term of a member shall be filled in the same manner as provided in this subsection for an original appointment. The presence of two members shall constitute a quorum for any called meeting of the commission.

(3) The commission is vested with all authority, powers, duties, and responsibilities relating to unemployment compensation appeal proceedings under chapter 443.

(4) The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the Department of Labor and Employment Security.

(5) The commission shall not be subject to control, supervision, or direction by the Department of Labor and Employment Security in the performance of its powers and duties under chapter 443.

(6) The commission 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 are necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid as provided in s. 443.211 upon the presentation of itemized vouchers therefor, approved by the chair.

(7) The commission may charge, in its discretion, for publications, subscriptions, and copies of records and documents. Such fees shall be deposited in the Employment Security Administration Trust Fund.

(8) The commission shall maintain and keep open during reasonable business hours an office, which shall be provided in the Capitol or some other suitable building in the City of Tallahassee, for the transaction of its business, at which office its official records and papers shall be kept. The offices shall be furnished and equipped by the commission. The commission may hold sessions and conduct hearings at any place within the state.

(9) The commission shall prepare and submit a budget covering the necessary administrative cost of the commission.

(10) The commission shall have a seal for authentication of its orders, awards, and proceedings, upon which shall be inscribed the words "State of Florida-Unemployment Appeals Commission-Seal," and it shall be judicially noticed.

(11) The commission has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it.

(12) Orders of the commission relating to unemployment compensation under chapter 443 shall be subject to review only by notice of appeal to the district courts of appeal in the manner provided in s. 443.151(4)(e).

Section 12. Section 627.212, Florida Statutes, is amended to read:

627.212 Workplace safety program surcharge.—The department shall approve a rating plan for workers' compensation coverage insurance that provides for carriers voluntarily to impose a surcharge of no more than 10 percent on the premium of a policyholder or fund member if that policyholder or fund member has been identified by ~~the Division of Safety of the~~ Department of Labor and Employment Security as having been required to implement a safety program and having failed to establish or maintain, either in whole or in part, a safety program. The division shall adopt rules prescribing the criteria for the employee safety programs.

Section 13. Paragraphs (b) and (c) of subsection (4) of section 627.311, Florida Statutes, 1998 Supplement, are amended to read:

627.311 Joint underwriters and joint reinsurers.—

(4)

(b) The operation of the plan is subject to the supervision of a 13-member board of governors. The board of governors shall be comprised of:

1. Five of the 20 domestic insurers, as defined in s. 624.06(1), having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 domestic insurers;

2. Five of the 20 foreign insurers as defined in s. 624.06(2) having the largest voluntary direct premiums written in this state for workers' compensation and employer's liability insurance, which shall be elected by those 20 foreign insurers;

3. One person, who shall serve as the chair, appointed by the Insurance Commissioner;

4. One person appointed by the largest property and casualty insurance agents' association in this state; and

5. The consumer advocate appointed under s. 627.0613 or the consumer advocate's designee.

Each board member shall serve 4-year terms and may serve consecutive terms. No board member shall be an insurer which provides service to the plan or which has an affiliate which provides services to the plan or which is serviced by a service company or third-party administrator which provides services to the plan or which has an affiliate which provides services to the plan. The minutes, audits, and procedures of the board of governors are subject to chapter 119.

(c) The operation of the plan shall be governed by a plan of operation that is prepared at the direction of the board of governors. The plan of operation may be changed at any time by the board of governors or upon request of the department. The plan of operation and all changes thereto are subject to the approval of the department. The plan of operation shall:

1. Authorize the board to engage in the activities necessary to implement this subsection, including, but not limited to, borrowing money.

2. Develop criteria for eligibility for coverage by the plan, including, but not limited to, documented rejection by at least two insurers which reasonably assures that insureds covered under the plan are unable to acquire coverage in the voluntary market. Any insured may voluntarily elect to accept coverage from an insurer for a premium equal to or greater than the plan premium if the insurer writing the coverage adheres to the provisions of s. 627.171.

3. Require notice from the agent to the insured at the time of the application for coverage that the application is for coverage with the plan and that coverage may be available through an insurer, group self-insurers' fund,

commercial self-insurance fund, or assessable mutual insurer through another agent at a lower cost.

4. Establish programs to encourage insurers to provide coverage to applicants of the plan in the voluntary market and to insureds of the plan, including, but not limited to:

a. Establishing procedures for an insurer to use in notifying the plan of the insurer's desire to provide coverage to applicants to the plan or existing insureds of the plan and in describing the types of risks in which the insurer is interested. The description of the desired risks must be on a form developed by the plan.

b. Developing forms and procedures that provide an insurer with the information necessary to determine whether the insurer wants to write particular applicants to the plan or insureds of the plan.

c. Developing procedures for notice to the plan and the applicant to the plan or insured of the plan that an insurer will insure the applicant or the insured of the plan, and notice of the cost of the coverage offered; and developing procedures for the selection of an insuring entity by the applicant or insured of the plan.

d. Provide for a market-assistance plan to assist in the placement of employers. All applications for coverage in the plan received 45 days before the effective date for coverage shall be processed through the market-assistance plan. A market-assistance plan specifically designed to serve the needs of small good policyholders as defined by the board must be finalized by January 1, 1994.

5. Provide for policy and claims services to the insureds of the plan of the nature and quality provided for insureds in the voluntary market.

6. Provide for the review of applications for coverage with the plan for reasonableness and accuracy, using any available historic information regarding the insured.

7. Provide for procedures for auditing insureds of the plan which are based on reasonable business judgment and are designed to maximize the likelihood that the plan will collect the appropriate premiums.

8. Authorize the plan to terminate the coverage of and refuse future coverage for any insured that submits a fraudulent application to the plan or provides fraudulent or grossly erroneous records to the plan or to any service provider of the plan in conjunction with the activities of the plan.

9. Establish service standards for agents who submit business to the plan.

10. Establish criteria and procedures to prohibit any agent who does not adhere to the established service standards from placing business with the plan or receiving, directly or indirectly, any commissions for business placed with the plan.

11. Provide for the establishment of reasonable safety programs for all insureds in the plan. ~~At the direction of the board, the Division of Safety shall provide inspection to insureds and applicants for coverage in the plan identified as high-risk insureds by the board or its designee.~~

12. Authorize the plan to terminate the coverage of and refuse future coverage to any insured who fails to pay premiums or surcharges when due; who, at the time of application, is delinquent in payments of workers' compensation or employer's liability insurance premiums or surcharges owed to an insurer, group self-insurers' fund, commercial self-insurance fund, or assessable mutual insurer licensed to write such coverage in this state; or who refuses to substantially comply with any safety programs recommended by the plan.

13. Authorize the board of governors to provide the services required by the plan through staff employed by the plan, through reasonably compensated service providers who contract with the plan to provide services as specified by the board of governors, or through a combination of employees and service providers.

14. Provide for service standards for service providers, methods of determining adherence to those service standards, incentives and disincentives for service, and procedures for terminating contracts for service providers that fail to adhere to service standards.

15. Provide procedures for selecting service providers and standards for qualification as a service provider that reasonably assure that any service provider selected will continue to operate as an ongoing concern and is capable of providing the specified services in the manner required.

16. Provide for reasonable accounting and data-reporting practices.

17. Provide for annual review of costs associated with the administration and servicing of the policies issued by the plan to determine alternatives by which costs can be reduced.

18. Authorize the acquisition of such excess insurance or reinsurance as is consistent with the purposes of the plan.

19. Provide for an annual report to the department on a date specified by the department and containing such information as the department reasonably requires.

20. Establish multiple rating plans for various classifications of risk which reflect risk of loss, hazard grade, actual losses, size of premium, and compliance with loss control. At least one of such plans must be a preferred-rating plan to accommodate small-premium policyholders with good experience as defined in sub-subparagraph 22.a.

21. Establish agent commission schedules.

22. Establish three subplans as follows:

a. Subplan "A" must include those insureds whose annual premium does not exceed \$2,500 and who have neither incurred any lost-time claims nor incurred medical-only claims exceeding 50 percent of their premium for the immediate 2 years.

b. Subplan "B" must include insureds that are employers identified by the board of governors as high-risk employers due solely to the nature of the operations being performed by those insureds and for whom no market exists in the voluntary market, and whose experience modifications are less than 1.00.

c. Subplan "C" must include all other insureds within the plan.

Section 14. Chapter 442, Florida Statutes, consisting of ss. 442.001, 442.002, 442.003, 442.004, 442.005, 442.006, 442.007, 442.008, 442.009, 442.1015, 442.011, 442.012, 442.013, 442.014, 442.015, 442.016, 442.017, 442.018, 442.019, 442.020, 442.021, 442.022, 442.023, 442.101, 442.102, 442.103, 442.104, 442.105, 442.106, 442.107, 442.108, 442.109, 442.111, 442.112, 442.113, 442.115, 442.116, 442.118, 442.1185, 442.119, 442.121, 442.123, 442.125, 442.126, 442.127, 442.20, and 442.21 is repealed July 1, 2000. The Department of Labor and Employment Security shall submit to the Governor and the Legislature by January 1, 2000, a report on a proposed reauthorization of the Division of Safety and the provisions of chapter 442, Florida Statutes, based upon the following criteria:

(1) External requirements mandating that the State of Florida provide a state agency for employment safety issues;

(2) Internal organizational requirements that necessitate a state agency for safety issues and a review of state agency practices for the provision of existing safety-related activities.

(3) A compilation of best practices among public and private employers which achieve safety results without the creation of a governmental regulatory apparatus.

(4) The appropriateness of a management-by-exception system in which the division functions as a contract performance auditor for the development of internal risk and safety management issues among employers.

Section 15. Effective January 1, 2000, the brain and spinal cord injury program established in sections 400.805 and 413.48, Florida Statutes, and the Office of Disability Determinations administered by the Department of Labor and Employment Security are transferred by a type two transfer, as defined in section 20.06, Florida Statutes, to the Department of Health.

Section 16. Section 400.805, Florida Statutes, 1998 Supplement, is amended to read:

400.805 Transitional living facilities.—

(1) As used in this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Department" "~~Division~~" means the Department of Health ~~Division of Vocational Rehabilitation of the Department of Labor and Employment Security~~.

(c) "Transitional living facility" means a site where specialized health care services are provided, including, but not limited to, rehabilitative services, community reentry training, aids for independent living, and counseling to spinal-cord-injured persons and head-injured persons. This term does not include a hospital licensed under chapter 395 or any federally operated hospital or facility.

(2)(a) A person must obtain a license from the agency to operate a transitional living facility. A license issued under this section is valid for 1 year.

(b) The application for a license must be made on a form provided by the agency. A nonrefundable license fee of \$2,000 and a fee of up to \$39.25 per bed must be submitted with the license application.

(c) The agency may not issue a license to an applicant until the agency receives notice from the department ~~division~~ as provided in paragraph (5)(b).

(3) Each applicant for licensure must comply with the following requirements:

(a) Upon receipt of a completed, signed, and dated application, the agency shall require background screening, in accordance with the level 2 standards for screening set forth in chapter 435, of the managing employee, or other similarly titled individual who is responsible for the daily operation of the facility, and of the financial officer, or other similarly titled individual who is responsible for the financial operation of the facility, including billings for client care and services. The applicant must comply with the procedures for level 2 background screening as set forth in chapter 435.

(b) The agency may require background screening of any other individual who is an applicant if the agency has probable cause to believe that he or she has been convicted of a crime or has committed any other offense prohibited under the level 2 standards for screening set forth in chapter 435.

(c) Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care or assisted living licensure requirements of this state is acceptable in fulfillment of the requirements of paragraph (a).

(d) A provisional license may be granted to an applicant when each individual required by this section to undergo background screening has met the standards for the abuse registry background check and the Department of Law Enforcement background check, but the agency has not yet received background screening results from the Federal Bureau of Investigation, or a request for a disqualification exemption has been submitted to the agency

as set forth in chapter 435, but a response has not yet been issued. A standard license may be granted to the applicant upon the agency's receipt of a report of the results of the Federal Bureau of Investigation background screening for each individual required by this section to undergo background screening which confirms that all standards have been met, or upon the granting of a disqualification exemption by the agency as set forth in chapter 435. Any other person who is required to undergo level 2 background screening may serve in his or her capacity pending the agency's receipt of the report from the Federal Bureau of Investigation. However, the person may not continue to serve if the report indicates any violation of background screening standards and a disqualification exemption has not been requested of and granted by the agency as set forth in chapter 435.

(e) Each applicant must submit to the agency, with its application, a description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from the Medicare or Medicaid programs. Proof of compliance with the requirements for disclosure of ownership and control interests under the Medicaid or Medicare programs may be accepted in lieu of this submission.

(f) Each applicant must submit to the agency a description and explanation of any conviction of an offense prohibited under the level 2 standards of chapter 435 by a member of the board of directors of the applicant, its officers, or any individual owning 5 percent or more of the applicant. This requirement does not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation or organization's board of directors, and has no financial interest and has no family members with a financial interest in the corporation or organization, provided that the director and the not-for-profit corporation or organization include in the application a statement affirming that the director's relationship to the corporation satisfies the requirements of this paragraph.

(g) A license may not be granted to an applicant if the applicant or managing employee has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening set forth in chapter 435, unless an exemption from disqualification has been granted by the agency as set forth in chapter 435.

(h) The agency may deny or revoke licensure if the applicant:

1. Has falsely represented a material fact in the application required by paragraph (e) or paragraph (f), or has omitted any material fact from the application required by paragraph (e) or paragraph (f); or

2. Has had prior action taken against the applicant under the Medicaid or Medicare program as set forth in paragraph (e).

(i) An application for license renewal must contain the information required under paragraphs (e) and (f).

(4) An application for renewal of license must be submitted 90 days before the expiration of the license. Upon renewal of licensure, each applicant must submit to the agency, under penalty of perjury, an affidavit as set forth in paragraph (3)(d).

(5) A change of ownership or control of a transitional living facility must be reported to the agency in writing at least 60 days before the change is scheduled to take effect.

(6)(a) The agency shall adopt rules in consultation with the ~~department division~~ governing the physical plant of transitional living facilities and the fiscal management of transitional living facilities.

(b) The department ~~division~~ shall adopt rules in consultation with the agency governing the services provided to clients of transitional living facilities. The ~~department division~~ shall enforce all requirements for providing services to the facility's clients. The department ~~division~~ must notify the agency when it determines that an applicant for licensure meets the service requirements adopted by the division.

(c) The agency and the department ~~division~~ shall enforce requirements under this section, as such requirements relate to them respectively, and their respective adopted rules.

(7)(a) It is unlawful for any person to establish, conduct, manage, or operate a transitional living facility without obtaining a license from the agency.

(b) It is unlawful for any person to offer or advertise to the public, in any medium whatever, services or care defined in paragraph (1)(c) without obtaining a license from the agency.

(c) It is unlawful for a holder of a license issued under this section to advertise or represent to the public that it holds a license for a type of facility other than the facility for which its license is issued.

(8) Any designated officer or employee of the agency, of the state, or of the local fire marshal may enter unannounced upon and into the premises of any facility licensed under this section in order to determine the state of compliance with this section and the rules or standards in force under this section. The right of entry and inspection also extends to any premises that the agency has reason to believe are being operated or maintained as a facility without a license; but such an entry or inspection may not be made without the permission of the owner or person in charge of the facility unless a warrant that authorizes the entry is first obtained from the circuit court. The warrant requirement extends only to a facility that the agency has reason to believe is being operated or maintained as a facility without a license. An application for a license or renewal thereof which is made under this section constitutes permission for, and acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints. A current

valid license constitutes unconditional permission for, and acquiescence in, any entry or inspection of the premises by authorized personnel. The agency retains the right of entry and inspection of facilities that have had a license revoked or suspended within the previous 24 months, to ensure that the facility is not operating unlawfully. However, before the facility is entered, a statement of probable cause must be filed with the director of the agency, who must approve or disapprove the action within 48 hours. Probable cause includes, but is not limited to, evidence that the facility holds itself out to the public as a provider of personal assistance services, or the receipt by the advisory council on brain and spinal cord injuries of a complaint about the facility.

(9) The agency may institute injunctive proceedings in a court of competent jurisdiction for temporary or permanent relief to:

(a) Enforce this section or any minimum standard, rule, or order issued pursuant thereto if the agency's effort to correct a violation through administrative fines has failed or when the violation materially affects the health, safety, or welfare of residents; or

(b) Terminate the operation of a facility if a violation of this section or of any standard or rule adopted pursuant thereto exists which materially affects the health, safety, or welfare of residents.

The Legislature recognizes that, in some instances, action is necessary to protect residents of facilities from immediately life-threatening situations. If it appears by competent evidence or a sworn, substantiated affidavit that a temporary injunction should issue, the court, pending the determination on final hearing, shall enjoin operation of the facility.

(10) The agency may impose an immediate moratorium on admissions to a facility when the agency determines that any condition in the facility presents a threat to the health, safety, or welfare of the residents in the facility. If a facility's license is denied, revoked, or suspended, the facility may be subject to the immediate imposition of a moratorium on admissions to run concurrently with licensure denial, revocation, or suspension.

(11)(a) A violation of any provision of this section or rules adopted by the agency or department ~~division~~ under this section is punishable by payment of an administrative or a civil penalty fine not to exceed \$5,000.

(b) A violation of subsection (7) or rules adopted under that subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Each day of a continuing violation is a separate offense.

Section 17. Section 413.465, Florida Statutes, is transferred and renumbered as section 381.73, Florida Statutes, and amended to read:

381.73 ~~413.465~~ Short title.—Sections 381.73-381.79 ~~413.465-413.74~~ may be cited as the “Charlie Mack Overstreet Brain or Spinal Cord Injuries Act.”

Section 18. Section 413.48, Florida Statutes, is transferred and renumbered as section 381.74, Florida Statutes, and amended to read:

381.74 ~~413.48~~ Establishment and maintenance of a central registry.—The department ~~division~~ shall establish and maintain a central registry of persons who have moderate-to-severe brain or spinal cord injuries.

(1) Every public health agency, private health agency, public social agency, private social agency, and attending physician shall report to the division within 5 days after identification or diagnosis of any person who has a moderate-to-severe brain or spinal cord injury. The consent of such person shall not be required.

(2) The report shall contain the name, age, residence, and type of disability of the individual and such additional information as may be deemed necessary by the department ~~division~~.

Section 19. Section 413.49, Florida Statutes, 1998 Supplement, is transferred and renumbered as section 381.75, Florida Statutes, and amended to read:

381.75 ~~413.49~~ Duties and responsibilities of the division, of transitional living facilities, and of residents.—Consistent with the mandate of s. 413.46, the department ~~division~~ shall develop and administer a multilevel treatment program for persons who have brain or spinal cord injuries and who are referred to the brain and spinal cord injury program.

(1) Within 15 days after any report of a person who has a brain or spinal cord injury, the department ~~division~~ shall notify the individual or the most immediate available family members of their right to assistance from the state, the services available, and the eligibility requirements.

(2) The department ~~division~~ shall refer persons who have brain or spinal cord injuries to other state agencies to assure that rehabilitative services, if desired, are obtained by that person.

(3) The department ~~division~~, in consultation with emergency medical service, shall develop standards for an emergency medical evacuation system that will ensure that all persons who sustain traumatic brain or spinal cord injuries are transported to a department-approved ~~division-approved~~ trauma center that meets the standards and criteria established by the emergency medical service and the acute-care standards of the brain and spinal cord injury program.

(4) The department ~~division~~ shall develop standards for designation of rehabilitation centers to provide rehabilitation services for persons who have brain or spinal cord injuries.

(5) The department ~~division~~ shall determine the appropriate number of designated acute-care facilities, inpatient rehabilitation centers, and outpatient rehabilitation centers, needed based on incidence, volume of admissions, and other appropriate criteria.

(6) The department ~~division~~ shall develop standards for designation of transitional living facilities to provide individuals the opportunity to adjust to their disabilities and to develop physical and functional skills in a supported living environment.

(a) The Agency for Health Care Administration, in consultation with the department ~~division~~, shall develop rules for the licensure of transitional living facilities for persons who have brain or spinal cord injuries.

(b) The goal of a transitional living program for persons who have brain or spinal cord injuries is to assist each person who has such a disability to achieve a higher level of independent functioning and to enable that person to reenter the community. The program shall be focused on preparing participants to return to community living.

(c) A transitional living facility for a person who has a brain or spinal cord injury shall provide to such person, in a residential setting, a goal-oriented treatment program designed to improve the person's physical, cognitive, communicative, behavioral, psychological, and social functioning, as well as to provide necessary support and supervision. A transitional living facility shall offer at least the following therapies: physical, occupational, speech, neuropsychology, independent living skills training, behavior analysis for programs serving brain-injured persons, health education, and recreation.

(d) All residents shall use the transitional living facility as a temporary measure and not as a permanent home or domicile. The transitional living facility shall develop an initial treatment plan for each resident within 3 days after the resident's admission. The transitional living facility shall develop a comprehensive plan of treatment and a discharge plan for each resident as soon as practical, but no later than 30 days after the resident's admission. Each comprehensive treatment plan and discharge plan must be reviewed and updated as necessary, but no less often than quarterly. This subsection does not require the discharge of an individual who continues to require any of the specialized services described in paragraph (c) or who is making measurable progress in accordance with that individual's comprehensive treatment plan. The transitional living facility shall discharge any individual who has an appropriate discharge site and who has achieved the goals of his or her discharge plan or who is no longer making progress toward the goals established in the comprehensive treatment plan and the discharge plan. The discharge location must be the least restrictive environment in which an individual's health, well-being, and safety is preserved.

(7) Recipients of services, under this section, from any of the facilities referred to in this section shall pay a fee based on ability to pay.

Section 20. Section 413.507, Florida Statutes, is transferred and renumbered as section 381.76, Florida Statutes, and amended to read:

381.76 ~~413.507~~ Eligibility for the brain and spinal cord injury program.—

(1) An individual shall be accepted as eligible for the brain and spinal cord injury program following certification by the department ~~division~~ that the individual:

(a) Has been referred to the central registry pursuant to s. 413.48.

- (b) Is a legal resident of this state at the time of application for services.
- (c) Has suffered a traumatic injury as defined in s. 413.20.
- (d) Is medically stable as defined by rules of the department ~~division~~.
- (e) Is reasonably expected to achieve reintegration into the community through rehabilitative services.

(2) In the event the department ~~division~~ is unable to provide services to all eligible individuals, the department ~~division~~ may establish an order of selection.

Section 21. Section 413.604, Florida Statutes, is transferred and renumbered as section 381.77, Florida Statutes, and amended to read:

381.77 ~~413.604~~ Nursing home residents, age 55 and under; annual survey.—The department ~~division~~ shall conduct an annual survey of nursing homes in the state to determine the number of persons 55 years of age and under who reside in such homes due to brain or spinal cord injuries. All persons identified in such a survey shall be evaluated as to their rehabilitation potential, and any person who may benefit from rehabilitation shall be given an opportunity to participate in an appropriate rehabilitation program for which she or he may be eligible.

Section 22. Section 413.605, Florida Statutes, 1998 Supplement, is transferred and renumbered as section 381.78, Florida Statutes, and amended to read:

381.78 ~~413.605~~ Advisory council on brain and spinal cord injuries.—

(1) There is created within the department a 16-member advisory council on brain and spinal cord injuries. The council shall be composed of a minimum of four persons who have brain injuries or are family members of persons who have brain injuries, a minimum of four persons who have spinal cord injuries or are family members of persons who have spinal cord injuries, and a minimum of two persons who represent the special needs of children who have brain or spinal cord injuries. The balance of the council members shall be physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups that have expertise in areas related to the rehabilitation of persons who have brain or spinal cord injuries.

(2) Members of the council shall be appointed to serve by the secretary. An individual may not serve more than two terms.

(a) Eight members of the first appointed council shall serve an initial term of 2 years. This group shall include two persons who have brain injuries or are family members of persons who have brain injuries, two persons who have spinal cord injuries or are family members of persons who have spinal cord injuries, and four other persons from the previous council.

(b) The remaining members of the first appointed council shall serve an initial term of 4 years. Thereafter all members' terms shall be for 4 years.

(c) Any council member who is unwilling or unable to properly fulfill the duties of the office shall be succeeded by a person chosen by the secretary to serve out the unexpired balance of the replaced council member's term. If the unexpired balance of the replaced council member's term is less than 18 months, then, notwithstanding the provisions of this subsection, the succeeding council member may be reappointed by the secretary twice.

(3) The council shall meet at least two times annually.

(4) The council shall:

(a) Provide advice and expertise to the division in the preparation, implementation, and periodic review of the brain and spinal cord injury program as referenced in s. 413.49.

(b) Annually appoint a five-member committee composed of one person who has a brain injury or has a family member with a brain injury, one person who has a spinal cord injury or has a family member with a spinal cord injury, and three members who shall be chosen from among these representative groups: physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups with expertise in areas related to the rehabilitation of persons who have brain or spinal cord injuries, except that one and only one member of the committee shall be an administrator of a transitional living facility. Membership on the council is not a prerequisite for membership on this committee.

1. The committee shall perform onsite visits to those transitional living facilities identified by the Agency for Health Care Administration as being in possible violation of the statutes and rules regulating such facilities. The committee members have the same rights of entry and inspection granted under s. 400.805(7) to designated representatives of the agency.

2. Factual findings of the committee resulting from an onsite investigation of a facility pursuant to subparagraph 1. shall be adopted by the agency in developing its administrative response regarding enforcement of statutes and rules regulating the operation of the facility.

3. Onsite investigations by the committee shall be funded by the Health Care Trust Fund.

4. Travel expenses for committee members shall be reimbursed in accordance with s. 112.061. Members of the committee shall recuse themselves from participating in any investigation that would create a conflict of interest under state law, and the council shall replace the member, either temporarily or permanently.

(5) The membership of the council shall be appointed not later than August 1, 1994.

Section 23. Section 413.613, Florida Statutes, is transferred and renumbered as section 381.79, Florida Statutes, and amended to read:

381.79 ~~413.613~~ Brain and Spinal Cord Injury Rehabilitation Trust Fund.—

(1) There is created in the State Treasury the Brain and Spinal Cord Injury Rehabilitation Trust Fund. Moneys in the fund shall be appropriated to the department division for the purpose of providing the cost of care for brain or spinal cord injuries as a payor of last resort to residents of this state, for multilevel programs of care established pursuant to s. 413.49.

(a) Authorization of expenditures for brain or spinal cord injury care shall be made only by the department division.

(b) Authorized expenditures include acute care, rehabilitation, transitional living, equipment, and supplies necessary for activities of daily living, public information, prevention, education, and research.

(2) The department division shall issue a report to the President of the Senate and the Speaker of the House of Representatives by March 1 of each year, summarizing the activities supported by the trust fund.

(3) Annually, 5 percent of the revenues deposited monthly in the fund pursuant to s. 318.21(2)(d) shall be appropriated to the University of Florida and 5 percent to the University of Miami for spinal cord injury and brain injury research. The amount to be distributed to the universities shall be calculated based on the deposits into the fund for each quarter in the fiscal year, but may not exceed \$500,000 per university per year. Funds distributed under this subsection shall be made in quarterly payments at the end of each quarter during the fiscal year.

(4) The Board of Regents shall establish a program review process and may allocate up to \$10,000 of such funds for an overall program review which would include: a prospective program plan with goals, research design and proposed outcomes, and an annual report of research activities and findings. Prospective program plans shall be submitted to the Board of Regents, and funds shall be released upon acceptance of the proposed program plans. The annual report of research activities and findings shall be submitted to the Board of Regents, with the executive summaries submitted to the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Department of Health Labor and Employment Security.

Section 24. The Division of Vocational Rehabilitation will enter into local public-private partnerships to the extent that it is beneficial to increasing employment outcomes for persons with disabilities and ensuring their full involvement in the comprehensive workforce investment system.

Section 25. Legislative intent.—The Legislature finds that individuals with disabilities experience the highest unemployment rate of any group in society, as high as 75 percent, and that unemployment and poverty go hand in hand. The Legislature also finds that persons who complete the vocational rehabilitation program are twice as likely to obtain and maintain employment, and the use of private providers is the readiest way to add service capacity for this population. It is the intent of the Legislature to establish

an Occupational Access and Opportunity Commission, which will assemble individuals with disabilities, stakeholders, and employers to develop a single self-sufficiency strategy that provides for employment and career options for Floridians with disabilities.

Section 26. Definitions.—As used in sections 24 through 36, the term:

(1) “Commission” means the Commission on Occupational Access and Opportunity.

(2) “Corporation” means the Occupational Access and Opportunity Corporation.

(3) “Division” means the Division of Vocational Rehabilitation.

(4) “Office” means the Executive Office of the Governor.

(5) “Plan” means the state plan for vocational rehabilitation required by the federal Rehabilitation Act of 1973, as amended, and sections 24-36 of this act.

(6) “Region” means a service area for a regional workforce development board established by the Workforce Development Board.

Section 27. Occupational Access and Opportunity Commission; creation; purpose; membership.—

(1) There is created within the Department of Education the Occupational Access and Opportunity Commission.

(2) The commission shall consist of 16 members appointed, as provided herein, by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The commission must contain a minimum of 50 percent representation from the private-sector. The members of the commission shall include:

(a) The Commissioner of Education, or his or her designee, who shall serve as chair;

(b) The chair of the Florida Rehabilitation Council;

(c) The chair of the Council for Independent Living;

(d) The chair of the Commission for the Purchase from the Blind or Other Severely Handicapped;

(e) A community rehabilitation provider who contracts to provide vocational rehabilitation services to individuals who qualify for the program, who shall be appointed by the Governor for a term of 4 years;

(f) A representative from the Advocacy Center for Persons With Disabilities, who shall be appointed by the President of the Senate for a term of 4 years;

(g) A consumer of vocational rehabilitation services, who shall be appointed by the Speaker of the House of Representatives for a term of 4 years; and

(h) Other individuals with disabilities and representatives of business, workforce development, education, state government, local government, consumer advocate groups, employers of individuals with disabilities, or community organizations.

(3) Initially, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall each appoint as members meeting the qualifications contained in paragraph (h) of subsection (2), one member for a term of 3 years, one member for a term of 2 years, and one member for a term of 1 year. Thereafter, after receiving recommendations from the commission, the Governor, the President of the Senate, and the Speaker of the House of Representatives shall appoint all members for terms of 4 years. Any vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term by a person who possesses the proper qualifications for the vacancy.

(4) The private-sector members shall be limited to two consecutive 4-year terms.

(5) The commission shall hold its first meeting no later than September 1999, and must meet at least quarterly. A majority of the members constitute a quorum for the purpose of conducting business.

(6) The Governor shall name the chair of the commission from its appointed members. The commission shall biennially elect one of its members as vice chair, who shall preside in the absence of the chair. Neither the chair, nor the vice chair, may be a provider of client services funded through the commission.

(7) The Rehabilitation Council created by section 413.405, Florida Statutes, shall serve the commission and shall continue to perform its designated duties. The commission shall consider the recommendations made by the council.

(8) The commission may appoint advisory committees that the commission considers appropriate, which may include members from outside the commission to study special problems or issues and advise the commission on those subjects. Any existing advisory board, commission, or council may seek to become an official advisory committee to the commission by submitting to the commission a resolution requesting affiliation and having the request approved by the commission. The commission shall establish the operating procedures of the committees.

(9) The commission may establish an executive committee consisting of five members recommended by the chair and approved by the commission.

(10) The members of the commission are entitled to be reimbursed for reasonable and necessary expenses of attending meetings and performing commission duties, including per diem and travel expenses, and for personal

care attendants and interpreters needed by members during meetings, as provided in section 413.273, Florida Statutes.

(11) Each member of the commission shall file full and public disclosure of his or her financial interests and is subject to the provisions of part III of chapter 112, Florida Statutes.

(12) A member of the commission may not vote on a matter under consideration by the board regarding the provision of services by such member, or by any entity that such member represents; vote on a matter that would provide direct financial benefit to such member or the immediate family of such member; or engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the plan.

Section 28. Powers and duties.—The commission:

(1) Shall, no later than July 1, 2000, after consulting with stakeholders and holding public hearings, develop and implement a 5-year plan to promote occupational access and opportunities for Floridians with disabilities, and to fulfill the federal plan requirements. The plan must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The commission may make amendments annually to the plan, which must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the first of January.

(a) The plan must explore the use of Individual Training Accounts, as described in the federal Workforce Act of 1998, Pub. L. No. 105-220, for eligible clients. If developed, these accounts must be distributed under a written memorandum of understanding with One-Stop Career Center operators.

(b) The plan must include an emergency response component to address economic downturns.

(c) The plan must designate an administrative entity that will support the commission's work; provide technical assistance, training, and capacity-building assistance; help raise additional federal, state, and local funds; and promote innovative contracts that upgrade or enhance direct services to Floridians with disabilities.

(d) The plan must require that the commission enter into cooperative agreements with community-based rehabilitation programs to be the service providers for the program; however, state career service employees shall provide all services mandated by federal law. The commission shall, as rapidly as is feasible, increase the amount of such services provided by community-based rehabilitation programs. The plan must incorporate, to the maximum extent allowed by federal and state law and regulation, all available funds for such purposes. Funds and in-kind contributions from community and private sources shall be used to enhance federal and state resources.

(e) The plan must include recommendations regarding specific performance standards and measurable outcomes, and must outline procedures for

monitoring the commission's and designated administrative entity's operations to ensure that performance data is maintained and supported by records of such entities. The commission shall consult with the Office of Program Policy Analysis and Government Accountability in the establishment of performance standards, measurable outcomes, and monitoring procedures.

(2) Notwithstanding the provisions of part I of chapter 287, Florida Statutes, shall contract, no later than July 1, 2000, with the administrative entity designated in the plan to execute the services, functions, and programs prescribed in the plan. The commission shall serve as contract administrator. If approved by the federal Department of Education, the administrative entity may be a direct-support organization. The commission shall define the terms of the contract.

(3) Shall work with the employer community to better define, address, and meet its business needs with qualified Floridians with disabilities.

(4) Is responsible for the prudent use of all public and private funds provided for the commission's use, ensuring that the use of all funds is in accordance with all applicable laws, bylaws, and contractual requirements.

(5) Shall develop an operational structure to carry out the plan developed by the commission.

(6) May appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county, state, or Federal Government.

(7) In the performance of its duties, may undertake or commission research and studies.

(8) Shall develop a budget, which is in keeping with the plan, for the operation and activities of the commission and functions of its designated administrative entity. The budget shall be submitted to the Governor for inclusion in the Governor's budget recommendations.

(9) May assign staff from the office or division to assist in implementing the provisions of this act relating to the Occupational Access and Opportunity Commission.

Section 29. Occupational Access and Opportunity Corporation; use of property; board of directors; duties; audit.—

(1) ESTABLISHMENT.—If the commission elects to designate a direct-support organization as its administrative entity, such organization shall be designated the Occupational Access and Opportunity Corporation:

(a) Which is a corporation not for profit, as defined in s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, and is incorporated under the provisions of chapter 617, Florida Statutes, and approved by the Department of State.

(b) Which is organized and operated exclusively to request, receive, hold, invest, and administer property and to manage and make expenditures for

the operation of the activities, services, functions, and programs of the provisions of this act relating to the Occupational Access and Opportunity Commission.

(c) Which the commission, after review, has certified to be operating in a manner consistent with the policies and goals of the commission and the plan.

(d) Which shall not be considered an agency for the purposes of chapters 120 and 216, Florida Statutes; sections 255.25 and 255.254, Florida Statutes, relating to leasing of buildings; sections 283.33 and 283.35, Florida Statutes, relating to bids for printing; section 215.31, Florida Statutes; and parts IV through VIII of chapter 112, Florida Statutes.

(e) Which shall be subject to the provisions of chapter 119, Florida Statutes, relating to public records, and the provisions of chapter 286, Florida Statutes, relating to public meetings.

(2) USE OF PROPERTY.—The commission:

(a) May permit the use of property and facilities of the commission by the corporation, subject to the provisions of this section.

(b) Shall prescribe conditions with which the corporation must comply in order to use property and facilities of the commission. Such conditions must provide for budget and audit review, for oversight by the commission, and for a reversionary interest in any property used by the corporation upon its dissolution.

(c) Shall not permit the use of property and facilities of the commission if the corporation does not provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, age, or religion.

(3) BOARD OF DIRECTORS.—The board of directors of the corporation shall be composed of 15 members, appointed by the commission from its own membership. The vice chair of the commission shall serve as chair of the corporation's board of directors.

(4) POWERS AND DUTIES.—The corporation, in the performance of its duties:

(a) May make and enter into contracts and assume such other functions as are necessary to carry out the provisions of the plan and the corporation's contract with the commission which are not inconsistent with this or any other provision of law.

(b) May develop a program to leverage the existing federal and state funding and to provide upgraded or expanded services to Floridians with disabilities.

(c) May commission and adopt, in cooperation with the commission, an official business name and logo to be used in all promotional materials directly produced by the corporation.

(d) The corporation shall establish cooperative and collaborative memorandums of understanding with One-Stop Career Center operators to increase, upgrade, or expand services to Floridians with disabilities who are seeking employment and self-sufficiency.

Section 30. Annual audit.—

(1) The corporation shall make provision for an annual post-audit of its financial accounts to be conducted by an independent certified public accountant. The annual audit report is due before December 1 of each year, must include a management letter, and must be submitted to the Auditor General, and the Office of Program Policy Analysis and Government Accountability for review. The Office of Program Policy Analysis and Government Accountability, the commission, and the Auditor General have the authority to require and receive from the corporation or from its independent auditor any detail or supplemental data relative to the operation of the corporation. The corporation shall annually certify whether the corporation is operating in a manner that is consistent with, and achieving objectives that are consistent with, the policies and goals of the commission and the plan.

(2) The corporation shall provide to the commission a quarterly report that:

(a) Updates its progress and impact in creating employment and increasing the personal income of individuals with disabilities;

(b) Provides detailed, unaudited financial statements of sources and uses of public and private funds;

(c) Measures progress towards annual goals and objectives set forth in the commission's plan;

(d) Reviews all pertinent research findings and training efforts; and

(e) Provides other measures of accountability as requested by the commission.

Section 31. Annual report of the Occupational Access and Opportunity Commission; audits.—

(1) Before January 1 of each year, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a complete and detailed report setting forth for itself and its designated administrative entity:

(a) Its operations and accomplishments during the fiscal year.

(b) Its business and operational plan.

(c) The assets and liabilities of the designated administrative entity at the end of its most recent fiscal year.

(d) A copy of the annual financial and compliance audit.

(2) 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 commission or its designated administrative entity.

Section 32. Upon appointment, the Occupational Access and Opportunity Commission is authorized to prepare and submit the federally required state vocational rehabilitation plan and to serve as the governing authority of programs administered by the commission, including, but not limited to: administering the state's plan under the Rehabilitation Act of 1973, as amended; receiving federal funds as the state vocational rehabilitation agency; directing the expenditure of legislative appropriations for rehabilitative services through its designated administrative entity or other agents; and, if necessary, making any changes to the plan that the commission considers necessary to maintain compliance with the federal Rehabilitation Act of 1973, as amended, and implementing such changes in order to continue to qualify and maintain federal funding support. During the period of time between the appointment of the commission and the designation of the administrative entity, the commission and the division may, by agreement, provide for continued administration consistent with federal and state law.

Section 33. The division must comply with the transitional direction of the plan. If the commission designates an administrative entity other than the division, all powers, duties, and functions of and all related records, property, and equipment and all contractual rights, obligations of, and unexpended balances of appropriations and other funds or allocations of the division's component programs of the Department of Labor and Employment Security shall be transferred to the commission as provided in the plan, pursuant to section 20.06(2), Florida Statutes. The Department of Labor and Employment Security shall assist the commission in carrying out the intent of this chapter and achieving an orderly transition. The Office of Planning and Budget shall submit the necessary budget amendments to the Legislature in order to bring the budget into compliance with the plan.

Section 34. (1) The Department of Labor and Employment Security may offer, subject to the provisions of this section, active employees with 30 or more years of creditable service in a state-administered retirement system, or who are at least 62 years of age and are eligible for retirement in a state-administered retirement system, a one-time voluntary reduction-in-force payment during the 1999-2000 fiscal year. Such payment shall represent a payment of insurance costs and shall be paid as an annuity to be purchased by the department within funds appropriated for salary and benefits in the General Appropriations Act for fiscal year 1999-2000, which shall include funds derived from eliminating vacated positions. There shall be no annualization costs associated with this plan. The Secretary of Labor and Employment Security shall be deemed to be the public employer for purposes of negotiating the terms and conditions related to the reduction-in-force payments authorized by this section. All persons retiring under this program shall do so no later than January 1, 2000.

(2) The department, in consultation with the Department of Management Services, shall prepare a plan to implement the reduction-in-force payment authority for approval by the Office of Planning and Budgeting.

Such plan must meet all applicable federal requirements regarding the expenditure of federal funds; all applicable federal tax laws; and all other federal and state laws regarding special compensation to employees, including the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act. The plan must specify the savings created through the payment mechanism and the reduction-in-force, specify the source of funding of the payments, and delineate a timetable for implementation.

(3) If approved by the Office of Planning and Budgeting, such plan shall be submitted to the Legislature subject to the notice, review, and objection process authorized in s. 216.177, Florida Statutes.

(4) This section shall take effect upon becoming law.

Section 35. The Occupational Access and Opportunity Commission shall assure that the designated administrative entity and providers of direct service maintain an internal system of quality assurance, have proven functional systems, and are subject to a due-diligence inquiry for their fitness to undertake service responsibilities regardless of whether a contract for services is competitively or noncompetitively procured.

Section 36. It is the intent of the Legislature that the provisions of this act relating to the Occupational Access and Opportunity Commission not conflict with any federal statute or implementing regulation governing federal grant-in-aid programs administered by the division or the commission. Whenever such a conflict is asserted by the applicable agency of the Federal Government, the commission shall submit to the federal Department of Education, or other applicable federal agency, a request for a favorable policy interpretation of the conflicting portions. If the request is approved, as certified in writing by the secretary of the federal Department of Education, or the head of the other applicable federal agency, the commission or the division is authorized to make the adjustments in the plan which are necessary for achieving conformity to federal statutes and regulations. Before making such adjustments, the commission or the division shall provide to the President of the Senate and the Speaker of the House of Representatives an explanation and justification of the position of the division or the commission and shall outline all feasible alternatives that are consistent with this section. These alternatives may include the state supervision of local service agencies by the commission or the division if the agencies are designated by the Governor.

Section 37. Effective July 1, 2000, for purposes of effecting compliance with the Rehabilitation Act of 1973, as amended, upon appointment, the Commission on Occupational Access and Opportunity is designated the official state agency.

Section 38. Before the 2002 Regular Session of the Legislature, the Office of Program Policy Analysis and Government Accountability shall conduct a review of, and prepare a report on, the Occupational Access and Opportunity Commission and its designated administrative entity. The review must be comprehensive in its scope, but, at a minimum, must be conducted in such a manner as to specifically determine:

- (1) The progress toward achieving the established outcomes.
- (2) The circumstances contributing to the organization's ability to achieve, not achieve, or exceed its established outcomes.
- (3) Whether it would be sound public policy to continue or discontinue funding the organizations and the consequences of discontinuing the organizations.
- (4) The progress toward increasing services through community-based rehabilitation programs.
- (5) As a result of the provisions of the act relating to the Occupational Access and Opportunity Commission, the net increase or decrease of the associated administrative costs, as defined in the Rehabilitation Act of 1973, as amended.

The report shall be submitted by January 1, 2002, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 39. Effective January 1, 2001, the Division of Blind Services is transferred by a type two transfer as defined in section 20.06(5), Florida Statutes, from the Department of Labor and Employment Security to the Department of Education.

Section 40. Paragraph (a) of subsection (8) of section 440.05, Florida Statutes, 1998 Supplement, is repealed.

Section 41. There is hereby appropriated \$500,000 from the General Revenue Fund to the Department of Education for Fiscal Year 1999-2000.

Section 42. Subsections (2) and (3) of section 20.15, Florida Statutes, 1998 Supplement, are amended to read:

20.15 Department of Education.—There is created a Department of Education.

(2) COMMISSIONER OF EDUCATION.—The head of the Department of Education is the Commissioner of Education who shall be elected by vote of the qualified electors of the state pursuant to s. 5, Art. IV of the State Constitution.

(a) The Commissioner of Education shall appoint a Deputy Commissioner for Educational Programs who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination, efficiency, and effectiveness of kindergarten through 12th-grade education and vocational and continuing education programs, including workforce development.

(b) The Commissioner of Education shall appoint a Deputy Commissioner for Planning, Budgeting, and Management who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination of policies, programs, and procedures for the state-wide system of education and the department.

(c) The Commissioner of Education shall appoint a Deputy Commissioner for Technology and Administration who has such powers, duties, responsibilities, and functions as are necessary to ensure the greatest possible coordination and development of technological supports for the education system and efficient administration of the department.

(3) DIVISIONS.—The following divisions of the Department of Education are established:

- (a) Division of Community Colleges.
- (b) Division of Public Schools and Community Education.
- (c) Division of Universities.
- (d) Division of Workforce Development.
- (e) Division of Human Resource Development.
- (f) Division of Administration.
- (g) Division of Financial Services.
- (h) Division of Support Services.
- (i) Division of Technology.

Section 43. The Commissioner of Education is authorized to establish, abolish, or consolidate bureaus, sections, and subsections; to reallocate duties and functions; and to reassign positions in pay grade 25 and above to the Select Exempt Service category within the Department of Education in order to promote effective and efficient operation of the department. Authorized positions and appropriations may be transferred from one budget entity to another as required to implement the reorganization. The provisions of this section are subject to the requirements of section 216.181, Florida Statutes. The commissioner may not establish, abolish, or consolidate bureaus, sections, or subsections after January 31, 2000, unless such action is approved by the Legislature or by law. The commissioner shall provide a report on the reorganization to the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the chairs of the education and appropriations committees of the Legislature by January 31, 2001. This section is repealed on July 1, 2000.

Section 44. Except as otherwise provided herein, this act shall take effect October 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.