

Committee Substitute for
Committee Substitute for Senate Bill No. 108

An act relating to workers' compensation; amending s. 440.091, F.S.; specifying circumstances under which firefighters, emergency medical technicians, and paramedics are considered to be acting within the scope of their employment so as to qualify for workers' compensation benefits; providing a declaration of important state interest; amending s. 112.18, F.S.; expanding the provisions of law with respect to disability in the line of duty to include all law enforcement officers and certain correctional officers; providing a finding of important state interest; amending s. 440.02, F.S.; redefining the terms "employee" and "independent contractor"; prohibiting exemptions from coverage for commercial construction job sites; defining the terms "commercial building" and "residential building"; amending s. 440.05, F.S.; requiring employers to maintain business records specified by rules of the Division of Workers' Compensation, relative to exemptions from coverage; revising requirements for election of exemptions for coverage; amending s. 440.10, F.S.; providing penalties for employers who fail to secure compensation; amending s. 440.107, F.S.; requiring and authorizing the division to issue stop-work orders and to impose certain penalties against employers who fail to secure compensation; requiring the division to notify the Department of Business and Professional Regulation; amending s. 440.13, F.S.; providing for responsibilities of the three-member panel; requiring provision of data and support services by the division; revising the limitation on medical fees; providing for discontinuance of medical care under a managed care plan regardless of the date of an accident; amending s. 440.191, F.S.; revising duties of the Employee Assistance and Ombudsman Office; removing a requirement that an employee exhaust certain dispute-resolution procedures before filing a petition requesting benefits; amending s. 440.25, F.S.; revising procedures for mediation and hearings; extending the time for ordering and holding mediation conferences; providing requirements for granting a continuance; providing for mediation conducted by mediators other than from the Office of the Judges of Compensation Claims; requiring that the parties complete pretrial stipulations before concluding mediation; extending the time for holding final hearings; providing for waiver of any benefit not raised at the final hearing; providing for an expedited determination of pay; requiring that certain claims be resolved through an expedited process; providing for dismissal for lack of prosecution; limiting the payment of interest and the attachment of attorney's fees; amending s. 440.34, F.S.; revising provisions governing the award of claimant's attorney's fees; limiting the attachment of claimant's attorney's fees; amending s. 440.381, F.S.; requiring that the application for workers' compensation coverage contain a sworn statement by the agent; providing a penalty for carriers that fail to comply with audit requirements; revising requirements for audits;

amending s. 440.40, F.S.; requiring employers to post a notice related to the anti-fraud reward program; amending s. 440.45, F.S., relating to the Office of the Judges of Compensation Claims; clarifying the responsibilities of the director of the Division of Administrative Hearings as agency head of the Office of the Judges of Compensation Claims; amending ss. 489.114 and 489.510, F.S.; revising provisions governing the verification by the division of coverage of persons engaged in the business of contracting; specifying an administrative fine for contractors who are in noncompliance with chapter 440, F.S., to be paid to the Department of Business and Professional Regulation; amending s. 626.9892, F.S.; revising the criteria for the anti-fraud program; requiring the Department of Insurance to conduct a study related to workers' compensation for persons engaged in the construction industry; providing an effective date.

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

Section 1. Section 440.091, Florida Statutes, is amended to read:

440.091 Law enforcement officer, firefighter, emergency medical technician, or paramedic; when acting within the course of employment.—

(1) If an employee:

(a)(1) Is elected, appointed, or employed full time by a municipality, the state, or any political subdivision and is vested with authority to bear arms and make arrests and the employee's primary responsibility is the prevention or detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state;

(b)(2) Was discharging that primary responsibility within the state in a place and under circumstances reasonably consistent with that primary responsibility; and

(c)(3) Was not engaged in services for which he or she was paid by a private employer, and the employee and his or her public employer had no agreement providing for workers' compensation coverage for that private employment;

the employee ~~is considered shall be deemed~~ to have been acting within the course of employment. The term "employee" as used in this subsection section includes all certified supervisory and command personnel whose duties include, in whole or in part, responsibilities for the supervision, training, guidance, and management of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

(2) If a firefighter as defined by s. 112.191(1)(b) is engaged in extinguishing a fire, or protecting and saving life or property due to a fire in this state in an emergency, and such activities would be considered to be within the course of his or her employment as a firefighter and covered by the employer's workers' compensation coverage except for the fact that the firefighter

was off duty or that the location of the fire was outside the employer's jurisdiction or area of responsibility, such activities are considered to be within the course of employment. This subsection does not apply if the firefighter is performing activities for which he or she is paid by another employer or contractor.

(3) If an emergency medical technician or paramedic is appointed or employed full time by a municipality, the state, or any political subdivision, is certified under chapter 401, is providing basic life support or advanced life support services, as defined in s. 401.23, in an emergency situation in this state, and such activities would be considered to be within the course of his or her employment as an emergency medical technician or paramedic and covered by the employer's workers' compensation coverage except for the fact that the location of the emergency was outside of the employer's jurisdiction or area of responsibility, such activities are considered to be within the course of employment. The provisions of this subsection do not apply if the emergency medical technician or paramedic is performing activities for which he or she is paid by another employer or contractor.

Section 2. It is declared by the Legislature that firefighters perform state and municipal functions, that it is their duty to protect life and property at their own risk and peril, and that their activities are vital to the public safety. Therefore, the Legislature declares that it fulfills an important state interest to provide workers' compensation coverage to firefighters while engaged in extinguishing a fire, or protecting and saving life or property due to a fire in this state while off duty or engaging in such activities at a fire located outside the employer's jurisdiction or area of responsibility. It is further declared by the Legislature that emergency medical technicians and paramedics perform municipal and state functions, that it is their duty to protect and preserve life at their own risk and peril, and that their activities are vital to the public health, safety, and welfare. Therefore, the Legislature declares that it fulfills an important state interest to provide workers' compensation coverage to emergency medical technicians and paramedics while engaged in basic life support and advanced life support services due to an emergency in this state that is outside of their employer's jurisdiction or area of responsibility. Pursuant to Section 18, Article VII of the State Constitution, the Legislature determines and declares that the provisions of this act fulfill an important state interest.

Section 3. Section 112.18, Florida Statutes, is amended to read:

112.18 Firefighters and state law enforcement officers; special provisions relative to disability.—

(1) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter or ~~any state law enforcement officer or correctional officer~~ as defined in s. 943.10(1), (2), or (3) caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter or ~~state law enforcement officer~~ shall have successfully passed a physical examination upon entering into any such service as a firefighter or ~~state law~~

enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(2) This section shall be construed to authorize the above governmental entities to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter, law enforcement officer, or correctional officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

Section 4. The Legislature finds that a proper and legitimate state purpose is served when law enforcement officers, correctional officers, and correctional probation officers are included in the class that benefits from the presumption that tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is accidental and suffered in the line of duty unless the contrary be shown by competent evidence. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 5. Paragraphs (b), (c), and (d) of subsection (14) of section 440.02, Florida Statutes, are amended, and subsections (40) and (41) are added to that section, to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(14)

(b) “Employee” includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the division as provided in s. 440.05. However, any exemption obtained by a corporate officer of a corporation actively engaged in the construction industry is not applicable with respect to any commercial building project estimated to be valued at \$250,000 or greater.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c)1. “Employee” includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the division as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the division as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he or she meets all of the conditions set forth in subparagraph (d)1.

2. Notwithstanding the provisions of subparagraph 1., the term “employee” includes a sole proprietor or partner actively engaged in the construction industry with respect to any commercial building project estimated to be valued at \$250,000 or greater. Any exemption obtained is not applicable, with respect to work performed at such a commercial building project.

(d) “Employee” does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform;

e. The independent contractor is responsible for the satisfactory completion of work or services that he or she performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

- g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;
- h. The independent contractor has continuing or recurring business liabilities or obligations; and
- i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual. Notwithstanding the provisions of this paragraph or any other provision of this chapter, with respect to any commercial building project estimated to be valued at \$250,000 or greater, a person who is actively engaged in the construction industry is not an independent contractor and is either an employer or an employee who may not be exempt from the coverage requirements of this chapter.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees

in the same agency or, if such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the division; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

11. A person who performs services as a sports official for an entity sponsoring an interscholastic sports event or for a public entity or private, nonprofit organization that sponsors an amateur sports event. For purposes of this subparagraph, such a person is an independent contractor. For purposes of this subparagraph, the term "sports official" means any person who is a neutral participant in a sports event, including, but not limited to, umpires, referees, judges, linespersons, scorekeepers, or timekeepers. This subparagraph does not apply to any person employed by a district school board who serves as a sports official as required by the employing school board or who serves as a sports official as part of his or her responsibilities during normal school hours.

(40) "Commercial building" means any building or structure intended for commercial or industrial use, or any building or structure intended for multifamily use of more than four dwelling units, as well as any accessory use structures constructed in conjunction with the principle structure. The term, "commercial building," does not include the conversion of any existing residential building to a commercial building.

(41) "Residential building" means any building or structure intended for residential use containing four or fewer dwelling units and any structures intended as an accessory use to the residential structure.

Section 6. Subsections (10), (11), (12), and (13) are added to section 440.05, Florida Statutes, to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(10) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter shall maintain business records as specified by the division by rule, which rules must include the provision that any corporation with exempt officers and any partnership actively engaged in the construction industry with exempt partners must maintain written statements of those exempted persons affirmatively acknowledging each such individual's exempt status.

(11) Any sole proprietor or partner actively engaged in the construction industry claiming an exemption under this section shall maintain a copy of his or her federal income tax records for each of the immediately previous 3 years in which he or she claims an exemption. Such federal income tax records must include a complete copy of the following for each year in which an exemption is claimed:

(a) For sole proprietors, a copy of Federal Income Tax Form 1040 and its accompanying Schedule C;

(b) For partners, a copy of the partner's Federal Income Tax Schedule K-1 (Form 1065) and Federal Income Tax Form 1040 and its accompanying Schedule E.

A sole proprietor or partner shall produce, upon request by the division, a copy of those documents together with a statement by the sole proprietor or partner that the tax records provided are true and accurate copies of what the sole proprietor or partner has filed with the federal Internal Revenue Service. The statement must be signed under oath by the sole proprietor or partner and must be notarized. The division shall issue a stop-work order under s. 440.107(5) to any sole proprietor or partner who fails or refuses to produce a copy of the tax records and affidavit required under this paragraph to the division within 3 business days after the request is made.

(12) For those sole proprietors or partners that have not been in business long enough to provide the information required of an established business, the division shall require such sole proprietor or partner to provide copies of the most recently filed Federal Income Tax Form 1040. The division shall establish by rule such other criteria to show that the sole proprietor or partner intends to engage in a legitimate enterprise within the construction industry and is not otherwise attempting to evade the requirements of this section. The division shall establish by rule the form and format of financial information required to be submitted by such employers.

(13) Any corporate officer claiming an exemption under this section must be listed on the records of this state's Secretary of State, Division of Corporations, as a corporate officer. If the person who claims an exemption as a

corporate officer is not so listed on the records of the Secretary of State, the individual must provide to the division, upon request by the division, a notarized affidavit stating that the individual is a bona fide officer of the corporation and stating the date his or her appointment or election as a corporate officer became or will become effective. The statement must be signed under oath by both the officer and the president or chief operating officer of the corporation and must be notarized. The division shall issue a stop-work order under s. 440.107(1) to any corporation who employs a person who claims to be exempt as a corporate officer but who fails or refuses to produce the documents required under this subsection to the division within 3 business days after the request is made.

Section 7. Subsection (1) of section 440.10, Florida Statutes, is amended to read:

440.10 Liability for compensation.—

(1)(a) Every employer coming within the provisions of this chapter, including any brought within the chapter by waiver of exclusion or of exemption, shall be liable for, and shall secure, the payment to his or her employees, or any physician, surgeon, or pharmacist providing services under the provisions of s. 440.13, of the compensation payable under ss. 440.13, 440.15, and 440.16. Any contractor or subcontractor who engages in any public or private construction in the state shall secure and maintain compensation for his or her employees under this chapter as provided in s. 440.38.

(b) In case a contractor sublets any part or parts of his or her contract work to a subcontractor or subcontractors, all of the employees of such contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in one and the same business or establishment; and the contractor shall be liable for, and shall secure, the payment of compensation to all such employees, except to employees of a subcontractor who has secured such payment.

(c) A contractor may require a subcontractor to provide evidence of workers' compensation insurance or a copy of his or her certificate of election. A subcontractor electing to be exempt as a sole proprietor, partner, or officer of a corporation shall provide a copy of his or her certificate of election to the contractor.

(d)1. If a contractor becomes liable for the payment of compensation to the employees of a subcontractor who has failed to secure such payment in violation of s. 440.38, the contractor or other third-party payor shall be entitled to recover from the subcontractor all benefits paid or payable plus interest unless the contractor and subcontractor have agreed in writing that the contractor will provide coverage.

2. If a contractor or third-party payor becomes liable for the payment of compensation to the employee of a subcontractor who is actively engaged in the construction industry and has elected to be exempt from the provisions of this chapter, but whose election is invalid, the contractor or third-party

payor may recover from the claimant, partnership, or corporation all benefits paid or payable plus interest, unless the contractor and the subcontractor have agreed in writing that the contractor will provide coverage.

(e) A subcontractor is not liable for the payment of compensation to the employees of another subcontractor on such contract work and is not protected by the exclusiveness-of-liability provisions of s. 440.11 from action at law or in admiralty on account of injury of such employee of another subcontractor.

(f) If an employer ~~willfully~~ fails to secure compensation as required by this chapter, the division may assess against the employer a penalty not to exceed \$5,000 for each employee of that employer who is classified by the employer as an independent contractor but who is found by the division to not meet the criteria for an independent contractor that are set forth in s. 440.02. The division shall adopt rules to administer the provisions of this paragraph.

(g) For purposes of this section, a person is conclusively presumed to be an independent contractor if:

1. The independent contractor provides the general contractor with an affidavit stating that he or she meets all the requirements of s. 440.02(14)(d); and

2. The independent contractor provides the general contractor with a valid certificate of workers' compensation insurance or a valid certificate of exemption issued by the division.

A sole proprietor, partner, or officer of a corporation who elects exemption from this chapter by filing a certificate of election under s. 440.05 may not recover benefits or compensation under this chapter. An independent contractor who provides the general contractor with both an affidavit stating that he or she meets the requirements of s. 440.02(14)(d) and a certificate of exemption is not an employee under s. 440.02(14)(c) and may not recover benefits under this chapter. For purposes of determining the appropriate premium for workers' compensation coverage, carriers may not consider any person who meets the requirements of this paragraph to be an employee.

Section 8. Subsections (5) and (7) of section 440.107, Florida Statutes, are amended, and subsection (12) is added to that section to read:

440.107 Division powers to enforce employer compliance with coverage requirements.—

(5) Whenever the division determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to do so, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the division of a stop-work order on the employer, requiring the cessation of all business operations at the place of employment or job site. If the division makes such a determination, the division shall issue a stop-work order within 72 hours. The order shall take effect upon the date

of service upon the employer, unless the employer provides evidence satisfactory to the division of having secured any necessary insurance or self-insurance and pays a civil penalty to the division, to be deposited by the division into the Workers' Compensation Administration Trust Fund, in the amount of \$100 per day for each day the employer was not in compliance with this chapter.

(7) In addition to any penalty, stop-work order, or injunction, the division ~~shall~~ may assess against any employer, who has failed to secure the payment of compensation as required by this chapter, a penalty in the following amount ~~of~~:

(a) An amount equal to at least the amount that the employer would have paid or up to twice the amount the employer would have paid during periods it illegally failed to secure payment of compensation in the preceding 3-year period based on the employer's payroll during the preceding 3-year period; or

(b) One thousand dollars, whichever is greater.

Any penalty assessed under this subsection is due within 30 days after the date on which the employer is notified, except that, if the division has posted a stop-work order or obtained injunctive relief against the employer, payment is due, in addition to those conditions set forth in this section, as a condition to relief from a stop-work order or an injunction. Interest shall accrue on amounts not paid when due at the rate of 1 percent per month. The division shall adopt rules to administer this section.

(12) If the division finds that an employer who is certified or registered under part I or part II of chapter 489 and who is required to secure payment of the compensation provided for by this chapter to his or her employees has failed to do so, the division shall immediately notify the Department of Business and Professional Regulation.

Section 9. Subsection (12) and paragraph (b) of subsection (14) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(a) A three-member panel is created, consisting of the Insurance Commissioner, or the Insurance Commissioner's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians,

hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the division. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges. Until the three-member panel approves a schedule of per diem rates for inpatient hospital care and it becomes effective, all compensable charges for hospital inpatient care must be reimbursed at 75 percent of their usual and customary charges. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. However, the maximum percentage of increase in the individual reimbursement allowance may not exceed the percentage of increase in the Consumer Price Index for the previous year. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed either the usual and customary charge for treatment, care, and attendance, the agreed-upon contract price, or the maximum reimbursement allowance in the appropriate schedule, whichever is less.

(b) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price times 1.2 plus \$4.18 for the dispensing fee, except where the carrier has contracted for a lower amount. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount. Where the employer or carrier has contracted for such services and the employee elects to obtain them through a provider not a party to the contract, the carrier shall reimburse at the schedule, negotiated, or contract price, whichever is lower.

(c) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. Until the three-member panel approves a uniform schedule of maximum reimbursement allowances and it becomes effective, all compensable charges for treatment, care, and attendance provided by physicians, ambulatory surgical centers, work-hardening programs, or pain programs shall be reimbursed at the lowest maximum reimbursement allowance across all 1992 schedules of maximum reimbursement allowances for the services provided regardless of the place of service. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall

maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;
2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers;
3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and
4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(d) In addition to establishing the uniform schedule of maximum reimbursement allowances, the panel shall:

1. Take testimony, receive records, and collect data to evaluate the adequacy of the workers' compensation fee schedule, nationally recognized fee schedules and alternative methods of reimbursement to certified health care providers and health care facilities for inpatient and outpatient treatment and care.
2. Survey certified health care providers and health care facilities to determine the availability and accessibility of workers' compensation health care delivery systems for injured workers.
3. Survey carriers to determine the estimated impact on carrier costs and workers' compensation premium rates by implementing changes to the carrier reimbursement schedule or implementing alternative reimbursement methods.
4. Submit recommendations on or before January 1, 2003, and biennially thereafter, to the President of the Senate and the Speaker of the House of Representatives on methods to improve the workers' compensation health care delivery system.

The division shall provide data to the panel, including but not limited to utilization trends in the workers' compensation health care delivery system. The division shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to s. 440.13(8). The division shall provide administrative support and service to the panel to the extent requested by the panel.

(14) PAYMENT OF MEDICAL FEES.—

(b) Fees charged for remedial treatment, care, and attendance, except for independent medical examinations, may not exceed the applicable fee schedules adopted under this chapter.

Section 10. Paragraph (a) of subsection (2) of section 440.134, Florida Statutes, is amended to read:

440.134 Workers' compensation managed care arrangement.—

(2)(a) The self-insured employer or carrier may, subject to the terms and limitations specified elsewhere in this section and chapter, furnish to the employee solely through managed care arrangements such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery requires. For any self-insured employer or carrier who elects to deliver the medical benefits required by this chapter through a method other than a workers' compensation managed care arrangement, the discontinuance of the use of the workers' compensation managed care arrangement shall be without regard to the date of the accident, notwithstanding any other provision of law or rule.

Section 11. Section 440.191, Florida Statutes, is amended to read:

440.191 Employee Assistance and Ombudsman Office.—

(1)(a) In order to effect the self-executing features of the Workers' Compensation Law, this chapter shall be construed to permit injured employees and employers or the employer's carrier to resolve disagreements without undue expense, costly litigation, or delay in the provisions of benefits. It is the duty of all who participate in the workers' compensation system, including, but not limited to, carriers, service providers, health care providers, attorneys, employers, managed care arrangements, and employees, to attempt to resolve disagreements in good faith and to cooperate with the division's efforts to resolve disagreements between the parties. The division may by rule prescribe definitions that are necessary for the effective administration of this section.

(b) An Employee Assistance and Ombudsman Office is created within the Division of Workers' Compensation to inform and assist injured workers, employers, carriers, and health care providers, and managed care arrangements in fulfilling their responsibilities under this chapter. The division may by rule specify forms and procedures for administering requests ~~for assistance provided by~~ this section.

(c) The Employee Assistance and Ombudsman Office, Division of Workers' Compensation, shall be a resource available to all employees who participate in the workers' compensation system and shall take all steps necessary to educate and disseminate information to employees and employers. Upon receiving a notice of injury or death, the Employee Assistance and Ombudsman Office may initiate contact with the injured employee or employee's representative to discuss rights and responsibilities of the employee under this chapter and the services available through the Employee Assistance and Ombudsman Office.

~~(2)(a) An employee may not file a petition requesting any benefit under this chapter unless the employee has exhausted the procedures for informal dispute resolution under this section.~~

~~(a)(b) If at any time the employer or its carrier fails to provide benefits to which the employee believes she or he is entitled, the employee shall contact the office to request assistance in resolving the dispute. The office may review a petition for benefits filed under s. 440.192 shall investigate the dispute and may shall attempt to facilitate an agreement between the employee and the employer or carrier. The employee, the employer, and the carrier shall cooperate with the office and shall timely provide the office with any documents or other information that it may require in connection with its efforts under this section.~~

~~(b)(c) The office may compel parties to attend conferences in person or by telephone in an attempt to resolve disputes quickly and in the most efficient manner possible. Settlement agreements resulting from such conferences must be submitted to the Office of the Judges of Compensation Claims for approval.~~

~~(c)(d) The Employee Assistance and Ombudsman Office may assign an ombudsman to assist the employee in resolving the dispute. If the dispute is not resolved within 30 days after the employee contacts the office, The ombudsman may shall, at the employee's request, assist the employee in drafting a petition for benefits and explain the procedures for filing petitions. The division may by rule determine the method used to calculate the 30-day period. The Employee Assistance and Ombudsman Office may not represent employees before the judges of compensation claims. An employer or carrier may not pay any attorneys' fees on behalf of the employee for services rendered or costs incurred in connection with this section, unless expressly authorized elsewhere in this chapter.~~

Section 12. Subsections (1), (3), and (4) of section 440.25, Florida Statutes, are amended to read:

440.25 Procedures for mediation and hearings.—

(1) Within ~~90~~ 21 days after a petition for benefits is filed under s. 440.192, a mediation conference concerning such petition shall be held. Within ~~40~~ 7 days after such petition is filed, the judge of compensation claims shall notify the interested parties ~~by order~~ that a mediation conference concerning such petition will be held ~~unless the parties have notified the Office of the Judges of Compensation Claims that a mediation has been held~~. Such order ~~must notice~~ shall give the date ~~by which, time, and location~~ of the mediation conference ~~must be held~~. Such order ~~notice~~ may be served personally upon the interested parties or may be sent to the interested parties by mail. The claimant or the adjuster of the employer or carrier may, at the mediator's discretion, attend the mediation conference by telephone or, if agreed to by the parties, other electronic means. ~~A continuance may be granted if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control. Any order granting a continuance~~

must set forth the date of the rescheduled mediation conference. A mediation conference may not be used solely for the purpose of mediating attorney's fees.

(3)(a) Such mediation conference shall be conducted informally and does not require the use of formal rules of evidence or procedure. Any information from the files, reports, case summaries, mediator's notes, or other communications or materials, oral or written, relating to a mediation conference under this section obtained by any person performing mediation duties is privileged and confidential and may not be disclosed without the written consent of all parties to the conference. Any research or evaluation effort directed at assessing the mediation program activities or performance must protect the confidentiality of such information. Each party to a mediation conference has a privilege during and after the conference to refuse to disclose and to prevent another from disclosing communications made during the conference whether or not the contested issues are successfully resolved. This subsection and paragraphs (4)(a) and (b) shall not be construed to prevent or inhibit the discovery or admissibility of any information that is otherwise subject to discovery or that is admissible under applicable law or rule of procedure, except that any conduct or statements made during a mediation conference or in negotiations concerning the conference are inadmissible in any proceeding under this chapter.

1. Unless the parties conduct a private mediation under subparagraph 2., mediation shall be conducted by a mediator selected by the Director of the Division of Administrative Hearings from among mediators shall select a mediator. The mediator shall be employed on a full-time basis by the Office of the Judges of Compensation Claims. A mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Director of the Division of Administrative Hearings. Adjunct mediators may be employed by the Office of the Judges of Compensation Claims on an as-needed basis and shall be selected from a list prepared by the Director of the Division of Administrative Hearings. An adjunct mediator must be independent of all parties participating in the mediation conference. An adjunct mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program approved by the Director of the Division of Administrative Hearings. An adjunct mediator shall have access to the office, equipment, and supplies of the judge of compensation claims in each district.

2. With respect to any mediation occurring on or after January 1, 2003, if the parties agree or if mediators are not available under subparagraph 1. to conduct the required mediation within the period specified in this section, the parties shall hold a mediation conference at the carrier's expense within the 90-day period set for mediation. The mediation conference shall be conducted by a mediator certified under s. 44.106. If the parties do not agree upon a mediator within 10 days after the date of the order, the claimant shall notify the judge in writing and the judge shall appoint a mediator under this subparagraph within 7 days. In the event both parties agree, the results of the mediation conference shall be binding and neither party shall have a right to appeal the results. In the event either party refuses to agree to the results of the mediation conference, the results of the mediation

conference as well as the testimony, witnesses, and evidence presented at the conference shall not be admissible at any subsequent proceeding on the claim. The mediator shall not be called in to testify or give deposition to resolve any claim for any hearing before the judge of compensation claims. The employer may be represented by an attorney at the mediation conference if the employee is also represented by an attorney at the mediation conference.

(c) The parties shall complete the pretrial stipulations before the conclusion of the mediation conference if the claims, except for attorney's fees and costs, have not been settled and if any claims in any filed petition remain unresolved. The judge of compensation claims may impose sanctions against a party or both parties for failing to complete the pretrial stipulations before the conclusion of the mediation conference.

(4)(a) If the parties fail to agree upon written submission of pretrial stipulations at the mediation conference, on the 10th day following commencement of mediation, the questions in dispute have not been resolved, the judge of compensation claims shall order held a pretrial hearing to occur within 14 days after the date of mediation ordered by the judge of compensation claims. The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the pretrial hearing by mail. At the pretrial hearing, the judge of compensation claims shall, subject to paragraph (b), set a date for the final hearing that allows the parties at least 60 30 days to conduct discovery unless the parties consent to an earlier hearing date.

(b) The final hearing must be held and concluded within 90 45 days after the mediation conference is held pretrial hearing. Continuances may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control. The written consent of the claimant must be obtained before any request from a claimant's attorney is granted for an additional continuance after the initial continuance has been granted. Any order granting a continuance must set forth the date and time of the rescheduled hearing. A continuance may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the control of the parties. The judge of compensation claims shall report any grant of two or more continuances to the Deputy Chief Judge.

(c) The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the final hearing, served upon the interested parties by mail.

(d) The final hearing shall be held within 210 days after receipt of the petition for benefits in the county where the injury occurred, if the injury occurred in this state, unless otherwise agreed to between the parties and authorized by the judge of compensation claims in the county where the injury occurred. If the injury occurred outside without the state and is one for which compensation is payable under this chapter, then the final hearing above referred to may be held in the county of the employer's residence or

place of business, or in any other county of the state that which will, in the discretion of the Deputy Chief Judge, be the most convenient for a hearing. The final hearing shall be conducted by a judge of compensation claims, who shall, within 30 days after final hearing or closure of the hearing record, unless otherwise agreed by the parties, enter a final order on the merits of the disputed issues. The judge of compensation claims may enter an abbreviated final order in cases in which compensability is not disputed. Either party may request separate findings of fact and conclusions of law. At the final such hearing, the claimant and employer may each present evidence with in respect to the claims presented by the petition for benefits of such claim and may be represented by any attorney authorized in writing for such purpose. When there is a conflict in the medical evidence submitted at the hearing, the provisions of s. 440.13 shall apply. The report or testimony of the expert medical advisor shall be made a part of the record of the proceeding and shall be given the same consideration by the judge of compensation claims as is accorded other medical evidence submitted in the proceeding; and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13. No judge of compensation claims may make a finding of a degree of permanent impairment that is greater than the greatest permanent impairment rating given the claimant by any examining or treating physician, except upon stipulation of the parties. Any benefit due but not raised at the final hearing which was ripe, due, or owing at the time of the final hearing is waived.

(e) The order making an award or rejecting the claim, referred to in this chapter as a “compensation order,” shall set forth the findings of ultimate facts and the mandate; and the order need not include any other reason or justification for such mandate. The compensation order shall be filed in the Office of the Judges of Compensation Claims at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon.

(f) Each judge of compensation claims is required to submit a special report to the Deputy Chief Judge in each contested workers’ compensation case in which the case is not determined within 30 days of final hearing or closure of the hearing record. Said form shall be provided by the director of the Division of Administrative Hearings and shall contain the names of the judge of compensation claims and of the attorneys involved and a brief explanation by the judge of compensation claims as to the reason for such a delay in issuing a final order.

(g) Notwithstanding any other provision of this section, the judge of compensation claims may require the appearance of the parties and counsel before her or him without written notice for an emergency conference where there is a bona fide emergency involving the health, safety, or welfare of an employee. An emergency conference under this section may result in the entry of an order or the rendering of an adjudication by the judge of compensation claims.

(h) To expedite dispute resolution and to enhance the self-executing features of the Workers’ Compensation Law, the Deputy Chief Judge shall

make provision by rule or order for the resolution of appropriate motions by judges of compensation claims without oral hearing upon submission of brief written statements in support and opposition, and for expedited discovery and docketing. Unless the judge of compensation claims, for good cause, orders a hearing under paragraph (i), each claim in a petition relating to the determination of pay under s. 440.14 shall be resolved under this paragraph without oral hearing.

(i) To further expedite dispute resolution and to enhance the self-executing features of the system, those petitions filed in accordance with s. 440.192 that involve a claim for benefits of \$5,000 or less shall, in the absence of compelling evidence to the contrary, be presumed to be appropriate for expedited resolution under this paragraph; and any other claim filed in accordance with s. 440.192, upon the written agreement of both parties and application by either party, may similarly be resolved under this paragraph. A claim in a petition or \$5,000 or less for medical benefits only or a petition for reimbursement for mileage for medical purposes shall, in the absence of compelling evidence to the contrary, be resolved through the expedited dispute-resolution process provided in this paragraph. For purposes of expedited resolution pursuant to this paragraph, the Deputy Chief Judge shall make provision by rule or order for expedited and limited discovery and expedited docketing in such cases. At least 15 days prior to hearing, the parties shall exchange and file with the judge of compensation claims a pretrial outline of all issues, defenses, and witnesses on a form adopted by the Deputy Chief Judge; provided, in no event shall such hearing be held without 15 days' written notice to all parties. No pretrial hearing shall be held. The judge of compensation claims shall limit all argument and presentation of evidence at the hearing to a maximum of 30 minutes, and such hearings shall not exceed 30 minutes in length. Neither party shall be required to be represented by counsel. The employer or carrier may be represented by an adjuster or other qualified representative. The employer or carrier and any witness may appear at such hearing by telephone. The rules of evidence shall be liberally construed in favor of allowing introduction of evidence.

(j) A judge of compensation claims may, upon the motion of a party or the judge's own motion, dismiss a petition for lack of prosecution if a petition, response, motion, order, request for hearing, or notice of deposition has not been filed during the previous 12 months unless good cause is shown. A dismissal for lack of prosecution is without prejudice and does not require a hearing.

(k) A judge of compensation claims may not award interest on unpaid medical bills and the amount of such bills may not be used to calculate the amount of interest awarded. Regardless of the date benefits were initially requested, attorney's fees do not attach under this subsection until 30 days after the date the carrier or self-insured employer receives the petition.

Section 13. Subsection (3) of section 440.34, Florida Statutes, is amended to read:

440.34 Attorney's fees; costs.—

(3) If the claimant should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the employer the reasonable costs of such proceedings, not to include the attorney's fees of the claimant. A claimant shall be responsible for the payment of her or his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom she or he successfully asserts a petition claim for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident; ~~or~~

(b) In any case in which the employer or carrier files a response to petition denying benefits with the Office of the Judges of Compensation Claims and the injured person has employed an attorney in the successful prosecution of the petition claim; ~~or~~

(c) In a proceeding in which a carrier or employer denies that an accident injury occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; ~~or~~

(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s. 440.28.

Regardless of the date benefits were initially requested, attorney's fees shall not attach under this subsection until 30 days after the date the carrier or employer, if self-insured, receives the petition. In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), (c), and (d), the judge of compensation claims must only consider only such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), (c), and (d).

Section 14. Subsections (2), (3), and (6) of section 440.381, Florida Statutes, are amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(2) The application must contain a statement that the filing of an application containing false, misleading, or incomplete information with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a sworn statement by the employer attesting to the accuracy of the information submitted and acknowledging the provisions of former s. 440.37(4). The application must contain a sworn statement by the agent attesting that the agent explained to the employer or officer the classification codes that are used for premium calculations.

(3) The Department of Insurance and the Department of Labor and Employment Security shall establish by rule minimum requirements for audits of payroll and classifications in order to ensure that the appropriate premium is charged for workers' compensation coverage. The rules shall ensure

that audits performed by both carriers and employers are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors have been reviewed and that the accuracy of classification of employees has been verified. The rules shall provide that employers in all classes other than the construction class be audited not less frequently than biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. In no event shall employers in the construction class, generating more than the amount of premium required to be experience rated, be audited less than annually. The annual audits required for construction classes shall consist of physical onsite audits. Payroll verification audit rules must include, but need not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees. At the completion of an audit, the employer or officer of the corporation and the auditor must print and sign their names on the audit document and attach proof of identification to the audit document.

(6) If an employer ~~intentionally~~ understates or conceals payroll, or misrepresents or conceals employee duties so as to avoid proper classification for premium calculations, or misrepresents or conceals information pertinent to the computation and application of an experience rating modification factor, the employer, or the employer's agent or attorney, shall pay to the insurance carrier a penalty of 10 times the amount of the difference in premium paid and the amount the employer should have paid and reasonable attorney's fees. The penalty may be enforced in the circuit courts of this state.

Section 15. Section 440.40, Florida Statutes, is amended to read:

440.40 Compensation notice.—Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place or places in and about her or his place or places of business typewritten or printed notices, in accordance with a form prescribed by the division, the following:

(1) A notice stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy. The division may by rule prescribe the form of the notices and require carriers to provide the notices to policyholders.

(2) A notice stating: “Anti-Fraud Reward Program.—Rewards of up to \$25,000 may be paid to persons providing information to the Department of Insurance leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers’ compensation coverage. Persons may report suspected fraud to the department at...(Phone No.).... A person is not subject to civil liability for furnishing such information, if such person acts without malice, fraud, or bad faith.”

Section 16. Subsection (1) of section 440.45, Florida Statutes, is amended to read:

440.45 Office of the Judges of Compensation Claims.—

(1)(a) There is created the Office of the Judges of Compensation Claims within the Department of Management Services. The Office of the Judges of Compensation Claims shall be headed by the Deputy Chief Judge of Compensation Claims. The Deputy Chief Judge shall report to the director of the Division of Administrative Hearings. The Deputy Chief Judge shall be appointed by the Governor for a term of 4 years from a list of three names submitted by the statewide nominating commission created under subsection (2). The Deputy Chief Judge must demonstrate prior administrative experience and possess the same qualifications for appointment as a judge of compensation claims, and the procedure for reappointment of the Deputy Chief Judge will be the same as for reappointment of a judge of compensation claims. The office shall be a separate budget entity and the director of the Division of Administrative Hearings shall be its agency head for all purposes, including, but not limited to, rulemaking pursuant to subsection (4) and establishing agency policies and procedures. The Department of Management Services shall provide administrative support and service to the office to the extent requested by the director of the Division of Administrative Hearings but shall not direct, supervise, or control the Office of the Judges of Compensation Claims in any manner, including, but not limited to, personnel, purchasing, budgetary matters, or property transactions. The operating budget of the Office of the Judges of Compensation Claims shall be paid out of the Workers' Compensation Administration Trust Fund established in s. 440.50.

(b) The current term of the Chief Judge of Compensation Claims shall expire October 1, 2001. Effective October 1, 2001, the position of Deputy Chief Judge of Compensation Claims is created.

Section 17. Section 489.114, Florida Statutes, is amended to read:

489.114 Evidence of workers' compensation coverage.—Except as provided in s. 489.115(5)(d), any person, business organization, or qualifying agent engaged in the business of contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate, registration, or certificate of authority of the contractor, provide to the Construction Industry Licensing Board, as provided by board rule, evidence of workers' compensation coverage pursuant to chapter 440. In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that ~~such cancellation has occurred or that~~ persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation may ~~shall~~ result ~~solely~~ from records

furnished to the Division of Workers' Compensation by the persons or entities governed by this section or an investigation completed by the Division of Workers' Compensation. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine in the amount of \$500 ~~as provided by rule~~. The failure to maintain workers' compensation coverage as required by law shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate, registration, or certificate of authority of the contractor under the provisions of s. 489.129.

Section 18. Section 489.510, Florida Statutes, is amended to read:

489.510 Evidence of workers' compensation coverage.—Except as provided in s. 489.515(3)(b), any person, business organization, or qualifying agent engaged in the business of contracting in this state and certified or registered under this part shall, as a condition precedent to the issuance or renewal of a certificate or registration of the contractor, provide to the Electrical Contractors' Licensing Board, as provided by board rule, evidence of workers' compensation coverage pursuant to chapter 440. In the event that the Division of Workers' Compensation of the Department of Labor and Employment Security receives notice of the cancellation of a policy of workers' compensation insurance insuring a person or entity governed by this section, the Division of Workers' Compensation shall certify and identify all persons or entities by certification or registration license number to the department after verification is made by the Division of Workers' Compensation that ~~such cancellation has occurred or that~~ persons or entities governed by this section are no longer covered by workers' compensation insurance. Such certification and verification by the Division of Workers' Compensation may ~~shall~~ result ~~solely~~ from records furnished to the Division of Workers' Compensation by the persons or entities governed by this section or an investigation completed by the Division of Workers' Compensation. The department shall notify the persons or entities governed by this section who have been determined to be in noncompliance with chapter 440, and the persons or entities notified shall provide certification of compliance with chapter 440 to the department and pay an administrative fine in the amount of \$500 ~~as provided by rule~~. The failure to maintain workers' compensation coverage as required by law shall be grounds for the board to revoke, suspend, or deny the issuance or renewal of a certificate or registration of the contractor under the provisions of s. 489.533.

Section 19. Subsection (2) of section 626.9892, Florida Statutes, is amended to read:

626.9892 Anti-Fraud Reward Program; reporting of insurance fraud.—

(2) The department may pay rewards of up to \$25,000 to persons providing information leading to the arrest and conviction of persons committing ~~complex or organized~~ crimes investigated by the Division of Insurance Fraud arising from violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or s. 817.234.

Section 20. The Department of Insurance, in consultation with the board of governors of the joint underwriting association authorized under section 627.311, Florida Statutes, shall conduct a study of the response of the insurance market in meeting the need for coverage among construction industry employers at a rate that is not inadequate, excessive, or unfairly discriminatory, and any actual or potential availability concerns. The scope of the study shall include a review of workers' compensation insurance currently provided or required in other states and possible alternative coverages. The department shall submit a report recommending any changes needed to promote availability of coverage at a rate that is not inadequate, excessive, or unfairly discriminatory, to the President of the Senate and the Speaker of the House of Representatives on or before February 1, 2003.

Section 21. This act shall take effect July 1, 2002.

Approved by the Governor May 8, 2002.

Filed in Office Secretary of State May 8, 2002.