

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2180

SPONSOR: Banking and Insurance Committee and Senator Clary

SUBJECT: Occupational Safety and Health

DATE: April 20, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Under the provisions of section 14 of ch. 99-240, Laws of Florida, the Division of Safety will be effectively eliminated and ch. 442, F.S., will be repealed, effective July 1, 2000, by that section.

The committee substitute would repeal section 14 of ch. 99-240, L.O.F., and abrogate the repeal of the provisions of chapter 442, F.S., which relates to the powers and duties of the Division of Safety, transfer through a type two transfer the Division of Safety to the Division of Workers' Compensation, and create a Bureau of Safety within the Division of Workers' Compensation to assume the former duties and powers of the Division of Safety.

The committee substitute provides technical and conforming changes to implement the transfer of responsibilities relating to ch. 442, F.S., from the Division of Safety to the Bureau of Safety within the Division of Workers' Compensation within the Department of Labor and Employment Security.

The Senate budget (SB 2200) provides for 642 positions and funding of approximately \$188 million for Workers' Compensation (excluding workers' compensation appeals). In addition, the budget provides 80 positions and funding of \$7 million contingent upon legislation reauthorizing the Division of Safety. Also, 11 positions and \$482,000 for child labor are transferred from the Department of Labor and Employment Security to Safety and funded from the Workers' Compensation Administration Trust Fund.

This bill substantially amends the following sections of the Florida Statutes: 442.003, 442.014, 442.043, 442.20, 252.937, 627.0915. Section 14 of ch. 99-240, L.O.F., is repealed and the repeal of ch. 442, F.S., is abrogated.

II. Present Situation:

In 1999, pursuant to chapter 99-240, L.O.F., the jurisdiction of the Division of Safety was revised and limited to public sector employers. Also, ch. 442, F.S., which provides regulatory powers and duties for the Division of Safety was repealed, effective July 1, 2000.

In 1998, the Governor vetoed CS/SB 1626 relating to occupational safety and health. This legislation eliminated various duties and powers prescribed to the Department of Labor and Employment Security's Division of Safety, including: mandated employee health and safety programs for employers with a high frequency or severity of work related injuries and penalties for failure to implement such programs; division authority to enter and inspect private employers; and private sector employer penalties for refusal to admit for inspection. The 1998 legislation additionally authorized the division to provide safety consultations to employers who are insured pursuant to the joint underwriting plan approved by the Department of Insurance.

Under the provisions of s. 442.003, F.S., the Division of Safety's mission is "to enhance occupational safety and health in Florida through the implementation of practices, rules, and standards, that reduce the incidence of employee accidents, occupational diseases, and fatalities compensable under workers' compensation." The division is charged with identifying individual employers that have a high frequency or severity of work-related injuries, conduct safety inspections of those employers, and assist those employers in the development and implementation of employee safety and health programs.

According to the Department of Labor and Employment Security, approximately 84 percent or \$8.3 million of the division's budget is allocated from the Workers' Compensation Administration Trust Fund. The budget for the current year, 1999-2000, is \$9.7 million, excluding transfers and indirect expenses. Of the budgeted amount, Florida receives \$1.6 million in federal Occupational Safety and Health Administration (OSHA) grant money.

The division provides the following services:

1. Provide private sector federally funded (under s. 21(d) of OSHA) consultative services to small, high-risk employers who voluntarily request them. On-site training to assist employees in recognizing hazards and required protective measures are also included in the consultation. Employers who participate in this consultative service and demonstrate exemplary safety programs and injury rates may qualify for an exemption from an OSHA enforcement inspection for a year and it is renewable.
2. Provide public sector compliance program to high-risk incorporated municipalities, counties, and state agencies based upon their rate of workers' compensation claims and on-site logs of injuries.
3. Develop safety and health programs for industry groups that have a higher than average rate for workers' compensation.
4. Provide intervention services for areas of critical state need to address specific occupational related concerns, such as asbestos, use and storage of hazardous chemicals, and indoor air quality.

The Senate budget, SB 2200, for fiscal year 2000-01 provides for 642 positions and funding of approximately \$188 million for Workers' Compensation (excluding workers' compensation

appeals). In addition, the budget provides 80 positions and funding of \$7 million contingent upon legislation reauthorizing the Division of Safety. Also, 11 positions and \$482,000 for child labor are transferred from the Department of Labor and Employment Security to Safety and funded from the Workers' Compensation Administration Trust Fund.

III. Effect of Proposed Changes:

Section 1. Amends s. 442.003, F.S., to state that the Legislature intends that the Division of Workers' Compensation, rather than the Division of Safety should develop a means by which it can identify employers with a high frequency or severity of work-related injuries; conduct safety inspections of those employers; and assist those employers in the development and implementation of employee safety and health programs. The section also provides technical changes to replace references to the Division of Safety with the Division of Workers' Compensation.

Section 2. Amends s. 442.014, F.S., relating to the Division of Safety's cooperation with the federal government, to replace references to the Division of Safety with the Division of Workers' Compensation and to specify that the Division of Workers' Compensation has responsibility for safety-related requirements.

Section 3. Amends s. 442.023, F.S., relating to matters within the jurisdiction of the Division of Safety, to replace a reference to the Division of Safety with the Division of Workers' Compensation.

Section 4. Amends s. 442.20, F.S., relating to workplace safety, to replace references to the Division of Safety with the Division of Workers' Compensation. The section also provides that the rules of the Bureau of Industrial Safety and Health, the predecessor of the Division of Safety, which were in effect July 1, 2000, would be in effect as rules of the Division of Workers' Compensation until specifically amended by the department.

Section 5. Amends s. 252.937, F.S., relating to coordination of state agencies, to replace a reference to the Division of Safety with the Division of Workers' Compensation.

Section 6. Amends s. 627.0915, F.S., relating to workers' compensation discounts for employers implementing a workplace safety and health program and replaces a reference to the Division of Safety with the Division of Workers' Compensation.

Section 7. Provides for a type two transfer of all powers, duties, functions, personnel, property, and unexpended balances from the Division of Safety to the Division of Workers' Compensation. The Division of Workers' Compensation is required to create a Bureau of Safety within its division to assume the functions of the Division of Safety.

Section 8. Repeals s.14 of ch. 99-240, L.O.F., and abrogates the repeal of ch. 442, F.S., by that section.

Section 9. Provides that this act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The Senate budget (SB 2200) provides for 642 positions and funding of approximately \$188 million for Workers' Compensation (excluding workers' compensation appeals). In addition, the budget provides 80 positions and funding of \$7 million contingent upon legislation reauthorizing the Division of Safety. Also, 11 positions and \$482,000 for child labor are transferred from the Department of Labor and Employment Security to Safety and funded from the Workers' Compensation Administration Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A type one transfer is the transferring intact of an existing agency or department so that the agency or department becomes a unit of *another agency or a department*. A type two transfer is the merging into *another agency or department* of an existing agency or department or a program, activity, or function thereof, or if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished. In this instance, there is no transfer from one agency to another, but simply a shifting of

responsibilities from one division to another division *in the same agency*. Therefore, reference to the type of transfer is unnecessary.

The bill, on page 5, lines 6-12, refers to administrative rules of the Department of Labor and Employment Security pertaining to the function of the Bureau of Industrial Safety and Health which are in effect as of a certain time continue in effect as rules of the Division of Workers' Compensation. Typically, rulemaking authority is delegated to a department, not a division (though this does not apply to divisions that are independent of the department head, such as the Division of Retirement). The department head is required to approve a rule prior to the adoption, amendment, or repeal of a rule under s. 120.54(3), F.S. Therefore, the provision on page 5, lines 6-12 appears to be unnecessary.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
