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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-91, Laws of Florida

HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
FINAL ANALYSIS

BILL #: CS/HB 1803, 3rd ENG. (PCB IN 01-01)

RELATING TO: Workers' Compensation

SPONSOR(S): Council for Competitive Commerce, Committee on Insurance, Representative Waters & others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) INSURANCE YEAS 13 NAYS 0
(2) JUDICIAL OVERSIGHT (W/D)
(3) COUNCIL FOR COMPETITIVE COMMERCE YEAS 12 NAYS 0
(4)
(5)

I. SUMMARY:

Several provisions of the engrossed bill were also proposed in other bills. Please see section V.C. of this analysis for an explanation.

In 1993, the Legislature enacted a major reform of the Workers' Compensation Act for the stated goals of reducing system costs, primarily medical costs, and creating an efficient and self-executing system. Few revisions have been approved since then. This engrossed bill includes the following changes:

System administration: transfer the Office of the Judges of Compensation Claims, as a unit, to the Division of Administrative Hearings of the Department of Management Services; authorize the electronic transfer of benefits; revise or repeal various reporting requirements; provide for recovery of child support arrearages; authorize gubernatorial appointment of judges on an interim basis; establish specific criteria against which judges are evaluated; eliminate a one time five-hour education requirement for physicians; and end Division of Workers' Compensation participation in indigency petitions for appeals of adverse determinations.

Procedure: allow employers to choose whether or not to deliver medical benefits through workers' compensation managed care arrangements; authorize employees receiving medical benefits outside of workers' compensation managed care arrangements to change physicians once on request; grant "qualified rehabilitation providers" access to claimant medical records; revise procedures for lump sum settlements; exclude wages from concurrent employment until wage information is provided to carrier; and require public and private employers to comply with certain revised statutory requirements prior to receiving premium credits for work place safety.

Dispute resolution: eliminate docketing review and authorize partial dismissal of petitions.

The overall fiscal impact of the engrossed bill is indeterminate; however, it is expected to result in system cost savings through greater efficiencies. Specific recurring savings could include a reduction of 15 FTEs and $792,043.

On April 18, 2001, the Council for Competitive Commerce adopted a "strike everything" amendment and approved HB 1803 as a council substitute.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [x]	No []	N/A []
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Basis for Workers' Compensation

Workers' compensation laws reflect a basic compromise between labor and management: employers agree to provide injured employees with certain medical and indemnity (i.e., lost wages) benefits without regard to fault in exchange for injured employees giving up their right to sue their employers in tort. In the United States, workers' compensation statutes date back to the beginnings of the Industrial Revolution -- a period when both the frequency and severity of injuries were expected to increase because of increased mechanization in the workplace.

Legislative Intent

It is the stated intent of Florida's workers' compensation act "to ensure the prompt delivery of benefits to injured workers" and "facilitate the employee's return to gainful employment at a reasonable cost to the employer." It is also the intent of the Legislature that the workers' compensation system be an efficient and self-executing system and not an administrative or economic burden.

Agency Jurisdiction

Department of Labor and Employment Security

The Department of Labor and Employment Security, Division of Workers' Compensation (Division) is responsible for the administration of Florida's workers' compensation system. Its functions include:

- enforcing employer compliance with workers' compensation coverage requirements.
- overseeing reemployment of injured employees.
- monitoring and auditing the delivery of benefits.
- operating the Employee Assistance Office.
- administering the Special Disability Trust Fund.

The Office of the Judges of Compensation Claims, within the Department of Labor and Employment Security, oversees 31 judges of compensation claims located throughout the state. These judges of compensation claims preside over the formal dispute resolution process.

Agency for Health Care Administration

The Agency for Health Care Administration is responsible for regulating workers' compensation managed care arrangements. Workers' compensation medical benefits must be delivered through approved workers' compensation managed care arrangements.

Department of Insurance

The Department of Insurance has regulatory authority over insurance companies and group self-insurance funds. The Department of Insurance regulates insurance rates for workers' compensation insurers and the Workers' Compensation Joint Underwriting Association. The Department of Insurance also investigates (and refers for prosecution) criminal insurance fraud, including workers' compensation fraud.

Securing Worker's Compensation Coverage

Florida's workers' compensation act requires employers to secure the payment of medical and indemnity benefits to injured employees either by purchasing insurance or by meeting the requirements of self-insurance. Self-insurance can take two basic forms: individual self-insurance and group self-insurance funds. Individually self-insured employers are typically very large employers with substantial financial resources. Self-insurance funds are associations of employers that pool their money together in order to pay workers' compensation claims.

1993 Reforms

In 1993, the Legislature found that employers were experiencing dramatic increases in their worker's compensation costs and that the cost of workers' compensation medical care was rising at a greater rate than the rate of inflation. As a result, the Legislature found that there was a "financial crisis in the workers' compensation industry, causing severe economic problems for Florida's business community and adversely impacting Florida's ability to attract new business development to the state." In response, the Legislature re-wrote much of workers' compensation act to create a more efficient and self-executing act "which is not an economic or administrative burden." Chapter 93-415, Section 2. It mandated managed care for the delivery of medical benefits, created the Employee Assistance and Ombudsman Office, tightened the eligibility standards for permanent total disability benefits, and created a self-funding joint underwriting association.

Dispute Resolution

Despite the Legislature's intent, the workers' compensation system is not always self-executing and does not always deliver benefits in a quick and efficient manner. Disputes frequently arise between employees and employers or carriers. The workers' compensation system has several mechanisms designed to deal with disputes, including an informal process through the Division's Employee Assistance Office, managed care grievance procedures, and a formal dispute resolution process before a judge of compensation claims. Florida law sets out specific time frames for resolving disputes through these mechanisms.

An Insurance Committee staff report [1] examining the dispute resolution process found:

- dispute resolution took an average of 268 days -- more than twice the 120 days allowed in statute.
- presiding judges of compensation claims did not receive petitions until 25 days after they were filed (which is 4 days after the statutory time for holding mediation).
- mediation occurred, on average, 138 days after the filing of the petition for benefits (117 days longer than the statute contemplates).
- approximately 85 percent of employees exited the dispute resolution process within 163 days by settling their cases prior to or during state mediation.
- the number of employees filing petitions for benefits remained stable, yet the number of petitions for benefits filed annually more than doubled from 1993.
- numerous statutory requirements relevant to the dispute resolution process were not met or implemented as presumably intended by the Legislature.

(For the Present Situation relating to the specific changes proposed in the engrossed bill, refer to the Section-By-Section Analysis)

C. EFFECT OF PROPOSED CHANGES:

The engrossed bill would effect the following changes to the workers' compensation act in the areas of system administration, procedure, and dispute resolution:

System administration

- the Office of the Judges of Compensation Claims would be transferred, as unit, from the Department of Labor and Employment Security to the Division of Administrative Hearings of the Department of Management Services along with 18 administrative support positions from the Division of Workers' Compensation.
- the position of Chief Judge of Compensation Claims would be eliminated; the position of Deputy Chief Judge of Compensation Claims would be created and would report to the Director of the Division of Administrative Hearings.
- the Workers' Compensation Law's Code of Judicial Conduct would be repealed and the judges of compensation claims would be required to adhere to the Code of Judicial Conduct adopted by the Supreme Court of Florida.
- certain duties and responsibilities of the Department of Labor and Employment Security and the Division of Workers' Compensation would be reassigned to the Division of Administrative Hearings or the Office of the Judges of Compensation Claims.
- the monetary amount signifying "casual" labor would be increased from $100 to $500.
- certain interscholastic "sports officials," as defined in the engrossed bill, would not be considered "employees" for purposes of workers' compensation coverage requirements.
- county inmates would be made expressly ineligible for workers' compensation benefits as is now the case for state prisoners.

[1] Committee on Insurance, House of Representatives, State of Florida, "Resolving Workers' Compensation Disputes According to Statutory Time Lines: Policy Options for Consideration," (October 1999). This report is available on Online Sunshine, the Florida Legislature's web site (www.leg.state.fl.us).

- employees covered by the federal Defense Base Act would be ineligible for workers' compensation as employees covered under other federal compensation acts are now ineligible.
- carriers would be authorized to make benefit payments to injured workers electronically.
- carriers would be required to submit medical bills to the Division only if requested.
- physicians would be relieved of the 5-hour workers' compensation education requirement.
- the Division would be authorized to contract with a private entity for data collection.
- "gross income" under child support guidelines would be revised to include all workers' compensation benefits and settlements.
- the Division would no longer be a party to indigency petitions for appellate actions.
- self-insured employers could no longer use certificates of deposit, U.S. Treasury Notes, and direct obligations of the state government as security deposits with the Division.
- the Division would be authorized to require carriers or vendors submitting certain data electronically to be certified by the Division and meet certain performance standards, subject to a civil penalty of up to $500.
- the Workers' Compensation Joint Underwriting Association would be authorized to use policyholder surplus from any year to eliminate deficits.
- certain carrier reports submitted to the Department of Insurance would be revised or repealed.
- Division-compiled quarterly injury reports would be repealed.

Procedure

- employers and carriers would be permitted to choose whether to deliver medical benefits through a workers' compensation managed care arrangement; the employee would be entitled to one change of physician, as currently under managed care, if medical benefits are delivered without a workers' compensation managed care arrangement.
- "qualified rehabilitation providers" would be granted access to medical records.
- earnings from concurrent employment (i.e., second job) would not be included in the average weekly wage calculation until provided by the injured employee; employees not providing this information would be deemed to have waived any right to interest, penalties, and attorney's fees during the period in which the information is not provided, and carriers and employers would not be subject to penalties by the Division for untimely payment of indemnity benefits associated with incomplete concurrent employment information.
- child support and alimony claims would be excluded from the general exemption of workers' compensation benefits from the claims of creditors.
- claimants, and the adjuster for the employer or carrier, would be permitted to attend mediation conferences by telephone.
- when a carrier is uncertain of their obligation to pay compensation, the carrier would be specifically required to pay compensation within 14 days of the notice of injury.
- the First District Court of Appeal would be required to hear workers' compensation cases in a specialized division.
- the statewide nominating commission would be directed to consider compliance with certain statutory requirements in evaluating judges' performance and request legislative review of statutory requirement judges are generally unable to meet for reasons beyond their control; the Office of the Judges of Compensation Claims would be required to gather the information necessary for the commission to conduct its review of judges.

- when vacancies occur, the Governor would be authorized to appoint judges of compensation claims on an interim basis for a period not exceeding 120 days.
- a conflict relating to the prerequisites for obtaining a contractor's license and a workers' compensation exemption would be resolved.
- workers' compensation premium discounts would be allowed for safety programs that comply with the provisions of an approved rating plan; public employers seeking workers' compensation premium credits for work place safety would have to implement a safety program containing certain specified components..

Dispute resolution

- claimants would be required to file petitions directly with the Office of the Judges of Compensation Claims, rather than the Division.
- judges of compensation claims would be allowed to dismiss portions of petitions for benefits.
- claimants would be required to provide in the petition for benefits the date(s) of accident, the classification of compensation, and additional information regarding medical mileage requests.
- the "response to petition" would replace the term "notice of denial" when answering claimant petitions.
- the 120-day requirement for lump sum settlements would begin with the date the employer is notified of the injury. If an attorney represents the claimant, the judge of compensation claims would not be required to approve these settlements, except as to attorney's fees. In those instances where judges of compensation claims are required to review and approve lump-sum settlements, judges would be required to consider whether or not the allocation of the lump-sum settlement would provide for recovery of child support arrearages.
- judges of compensation claims would be required to enter a final order within 30 days of the final hearing or the close of the record; the judge would be able to issue an abbreviated final order in cases where compensability is not denied; the parties would be permitted to request separate findings of facts and conclusions of law.
- local rules of judicial procedure would be eliminated.
- the written consent of the claimant would be required to grant more than one continuance of the final hearing.
- docketing review would be eliminated.

D. SECTION-BY-SECTION ANALYSIS:

Sections 1 and 2: Amends ss. 61.14(8) and 61.30(2)(a), F.S., to require judges of compensation claims to consider the interests of the claimant and the claimant's dependents when approving lump sum settlements. Under section 17 of the engrossed bill, a judge would not be required to review and approve a lump-sum settlement if an attorney represents the claimant. The settlement must provide for recovery of child support arrearages. Amends the child support guidelines to include all workers' compensation benefits and settlements as "gross income" for purposes of child support determinations.

Section 3: Amends s. 112.3145, F.S., to provide for the establishment of the position of Deputy Chief Judge of Compensation Claims.

Section 4: Amends s. 120.65, F.S., to establish the Deputy Chief Judge of Compensation Claims as a direct subordinate of the Director of the Division of Administrative Hearings.

Section 5: Amends s. 121.055(1)(i), F.S., to provide for the Deputy Chief Judge's participation in either the Florida Retirement System or the Senior Management Service Optional Annuity Program.

Section 6: Amends s. 381.004(3)(e), F.S., to replace references to the Division of Workers' Compensation with the Division of Administrative Hearings where the reference is made in relation to the Office of the Judges of Compensation Claims.

Section 7: Amends s. 440.02, F.S., the definitions section of the workers' compensation law.

PRESENT SITUATION -- Under Florida law, the term "employee" does not include a person whose employment is "both casual and not in the course of the trade, business, profession, or occupation of the employer." See section 440.02(14)(d)5., F.S. The term "casual" is defined as employment that is contemplated to be completed in no more than 10 working days, without regard to the number of persons employed, "and when the total labor cost of such work *is less than $100*." See section 440.02(4), F.S. (emphasis added). The definition of "casual," including the reference to $100, was created in 1935. Based on the change in the Consumer Price Index, $100 in the year 1935 was worth $1,254 in the year 2000. Noting this anachronism, the First District Court of Appeal, in Summers v. Blanton, 712 So.2d 411 (Fla. 1st DCA 1998), recommended the Legislature update this figure.

Under current law, state prisoners are specifically excluded from coverage under workers' compensation. See s. 946.002(5), F.S. Although numerous court cases have held that it is the policy of the state that no prisoners of any kind are eligible for workers' compensation benefits, the statute does not expressly exclude county inmates from worker's compensation. See e.g., Metropolitan Dade County v. Sikes, IRC Order 2-3169 (May 27, 1977); Dep't of Health and Rehabilitative Services v. O'Neal, 400 So.2d 28 (Fla. 1st DCA 1981).

Generally, school employees must be covered by workers' compensation. "Independent contractors" and certain other types of workers are specifically excluded from workers' compensation coverage. When a regular school employee is separately employed as a "sports official," it may not be clear whether or not these persons are "independent contractors."

EFFECT OF SECTION -- *This section raises the dollar amount of labor signifying when employment is "casual," from $100 to $500.*

This section redefines "employment" to exclude state prisoners and county inmates from workers' compensation coverage.

This section also excludes from workers' compensation requirements persons employed by schools as "sports officials" for interscholastic competitions. "Sports official" is defined as neutral participants such as umpires, referees, and judges. This provision would not apply to persons required by their regular employment with a school board to serve as a "sports official."

Section 8: Amends s. 440.09, F.S.

PRESENT SITUATION -- Under current law, employees whose workplace injuries are covered by federal compensation acts such as the Longshoremen's and Harbor Worker's Act, the Jones Act, or the Federal Employer's Liability Act are precluded from recovering benefits under Florida's workers' compensation act.

EFFECT OF SECTION -- *This section would add the federal Defense Base Act to this list of federal compensation acts that, if applicable, preclude an employee's recovery under Florida's workers' compensation act. Employees covered by the Defense Base Act include employees of military installations.*

Section 9: Creates s. 440.1025, F.S.

PRESENT SITUATION – Public employers may qualify for workers' compensation premium credits by implementing a safety program. Formerly, these safety programs were to be in compliance with rules adopted by the Division of Safety of the Department of Labor and Employment Security. However, the Division of Safety no longer exists.

EFFECT OF SECTION – *In addition to section 34 of the engrossed bill, which proposes a general rule for public and private employers that workers' compensation premium credits would be permitted for safety programs that are implemented under a rating plan approved by the Department of Insurance, public employers seeking workers' compensation premium credits also would have to implement a workplace safety program that contains certain specified components.*

Section 10: Amends s. 440.105(3)(b), F.S., to conform references to the Chief Judge of Compensation Claims to the provisions of the engrossed bill creating the position of Deputy Chief Judge.

Section 11: Amends s. 440.12, F.S.

PRESENT SITUATION -- Florida law requires carriers to pay workers' compensation benefits to employees by check, which is then mailed to the employee or the employee's attorney, if the employee is represented by counsel. This process can result in delayed payments to employees as a result of incorrect mailing addresses and in the assessment of penalties against carriers for late payments.

In recent years, it has become common for many types of bank transactions and payments to be made electronically. For example, many employers, including the State of Florida, electronically deposit paychecks into employees' bank accounts. This not only reduces administrative costs associated with writing checks, it gives employees access to their money more quickly.

EFFECT OF SECTION -- *This section, along with a portion of section 14 of the engrossed bill, would authorize carriers, with the consent of the employee, to transfer workers' compensation benefit payments electronically to employees' accounts or to accounts set up for the employees.*

Section 12: Amends s. 440.13, F.S.

PRESENT SITUATION – Chapter 440, F.S, requires employers to provide medical benefits through workers' compensation managed care arrangements approved by the Agency for Health Care Administration under s. 440.134, F.S. Under mandatory managed care, the employee is entitled to one change of treating physician within the same network. The majority of employers utilize approved workers' compensation managed care arrangements to deliver medical benefits. All aspects of medical benefits are governed by s. 440.13, F.S. Delivery of medical benefits through approved workers' compensation managed care arrangements must meet the additional requirements of s. 440.134, F.S.

Section 440.13, F.S., does not now entitle an employee to one change of treating physician, upon request. If the carrier or employer is unwilling to authorize a change of treating physician, the employee must file a request for assistance and possibly a petition for benefits to secure a change.

Pursuant to s. 440.13(3)(a), F.S., physicians must provide proof of completion of a one-time 5-hour class on cost containment, utilization control, ergonomics, and practice parameters related to workers' compensation medical care. Physicians cite many reasons for a growing unwillingness to treat injured workers: low fees, too many forms and paperwork, and managed care. The 5-hour class requirement is another reason sometimes cited by physicians.

Under s. 440.13(4)(b), F.S., all medical bills or reports obtained or received by the employer, carrier, or employee, relating to the remedial treatment or care of the injured employee, including any report of an examination, diagnosis, or disability evaluation, are required to be filed with the Division. By rule, the Division requires this information to be sent to the Division within 30 days after each medical bill is paid. See Rule 38F-7.602(3)(b), Florida Administrative Code. This information is compiled by the Division into a report that is then sent to the Three-Member Panel for purposes of establishing reimbursement schedules.

Section 440.13(4)(c), F.S., also requires reasonable access to all medical information by all parties to facilitate the self-executing features of the workers' compensation law. Section 440.13(4)(c), F.S., specifically identifies those with access to employee medical information, including the employer, the carrier, and the attorney for either of them.

EFFECT OF SECTION -- *Employees receiving medical benefits outside of approved workers' compensation managed care arrangements would be entitled to one change of treating physician during the course of treatment for a work-related accident; employees would continue to be able to secure additional changes of physician upon agreement of the employer or carrier or by order of a judge of compensation claims. This section would remove the one time 5-hour education requirement for physicians. Also, the section would modify the medical bill reporting requirement so that medical information would be provided only upon the request of the Division. Finally, this section would add "qualified rehabilitation providers" as defined in s. 440.491(1)(c), F.S., to the list of persons who would have access to an employee's medical information.*

Section 13: Amends s. 440.134, F.S.

PRESENT SITUATION – Section 440.13, F.S., generally regulates the delivery of medical benefits. The delivery of all medical benefits must comply with s. 440.13, F.S. Medical care that is delivered through a workers' compensation managed care arrangement must meet the requirements of ss. 440.13 and 440.134, F.S. Approximately 80% of medical care is delivered through managed care.

Enacted in 1993, s. 440.134, F.S., is the workers' compensation managed care statute. Since January 1, 1997, the use of workers' compensation managed care arrangements has been mandatory. The Agency for Health Care Administration approves all workers' compensation managed care arrangements. A workers' compensation managed care arrangement is a contractual arrangement between an insurer and a health care provider designed to provide medical care to injured employees under workers' compensation.

EFFECT OF SECTION – *This section would permit employers and carriers to deliver medical benefits either through workers' compensation managed care arrangements or outside of workers' compensation managed care arrangements. While employers and carriers would have the option of choosing the method of delivering medical benefits, the substance of the medical care provisions of chapter 440 would not be changed by this section of the engrossed bill. Care delivered through a*

workers' compensation managed care arrangement would still be subject to s. 440.134, F.S. and all other medical care would have to meet the requirements of s. 440.13, F.S.

Section 14: Creating s. 440.14(5), F.S.

PRESENT SITUATION -- The calculation of the claimant's average weekly wage is the determining factor in setting the claimant's indemnity benefits. The claimant's average weekly wage is established by averaging the claimant's wages over the thirteen weeks preceding the date of injury. The employer or carrier providing coverage must provide pay history within 14 days of filing or pay an award of attorney's fees. Presently, the First District Court of Appeals interprets "average weekly wage" to include all concurrent employment (i.e., second jobs). The employer or carrier may not have access to wage information for the second job unless supplied by the employee.

EFFECT OF SECTION -- *Lost wages from concurrent employment (e.g., second jobs) could not be included in the calculation of the average weekly wage unless the employee furnished this information to the carrier. Employees not providing this information would be deemed to have waived any right to interest, penalties, and attorney's fees during the period in which the information is not provided, and carriers would not be subject to late payment penalties related to earnings from the second job during the period in which the information is not provided.*

Section 15: Amends s. 440.185, F.S.

PRESENT SITUATION -- Presently, s. 440.185(7), F.S., requires carriers to file policy information (sometimes referred to as "proof of coverage" data) with the Division. Pursuant to ss. 440.185(7) and 440.42(2), F.S., carriers are also required to file all notices of policy cancellation and expiration with the Division. Carriers meet these statutory requirements by making a paper filing of this information. In addition to this paper filing, however, carriers report this same information to rating organizations, such as the National Council on Compensation Insurance, for ratemaking purposes. Due to the more advanced technology of the rating organizations, this latter filing is usually made electronically.

EFFECT OF SECTION -- *This section, along with section 27 of the engrossed bill, would authorize the Division to contract with a private entity to collect the policy information and receive the notices of cancellation and expiration. This would allow the outsourcing of the proof of coverage function of the Division.*

Section 16: Amends s. 440.192, F.S.

PRESENT SITUATION -- Employees must file petitions with the Division, which records certain information. The Division then sends the petition to a docketing judge, where it is reviewed before being forwarded to the judge of compensation claims presiding over the dispute. There is no standard petition form. According to the October 1999 Insurance Committee staff report,[2] this process took an average of 25 days -- 4 days longer than the statutory time for holding mediation.

Section 440.192(2), F.S., sets forth the specific information that must be contained in a petition for it to be considered. This section requires the Office of the Judges of Compensation Claims to dismiss any petition that does not contain all of the required information.

[2] Id.

Section 440.192(5), F.S., relating to motions to dismiss, requires all motions to state with particularity the basis for the motion. This section, however, does not specifically permit judges of compensation claims to dismiss discrete portions of a petition.

Under current law, an employer or carrier answers the claimant's petition for benefits with a "notice of denial." However, the employer or carrier does not necessarily deny all of the benefits requested in the petition.

EFFECT OF SECTION -- *This section of the engrossed bill modifies the process for filing a petition. The employee would file the petition directly with the Office of the Judges of Compensation Claims and provide copies to the employer, carrier, and the Division. This section requires the Division to inform employees of the location of the Office of the Judges of Compensation Claims. Additionally, certain responsibilities of the Division of Workers' Compensation would be reassigned to the Office of the Judges of Compensation Claims to facilitate to transfer of the Office to the Division of Administrative Hearings.*

This section, in combination with section 24 of the engrossed bill (which repeals the section of law relating to docketing judges), requires judges of compensation claims to, in essence, act as their own docketing judge and review each petition to ensure it meets the specificity requirements of the statute. This section also requires each judge of compensation claims to dismiss, without prejudice and without a hearing, each petition, or any portion thereof, which does not meet the specificity requirements.

This section requires additional specific information to be provided in the petition. Petitions would be required to also contain the date of accident, the classification of compensation, and certain additional medical mileage information.

In combination with portions of sections 14 and 19, the "notice of denial" would be renamed "response to petition" in those instances where a petition has been filed. The "notice of denial" would remain in use to address requests for benefits prior to the filing of a petition.

Section 17: Amends s. 440.20, F.S., relating to time for payment of compensation.

PRESENT SITUATION -- See section 8 of the section-by-section analysis for a discussion of the electronic transfer of benefit payments. See section 13 of the section-by-section analysis for a discussion of the "notice of denial" and "response to petition."

Carriers may enter into lump sum settlements with injured employees. These settlements can encompass all future medical and indemnity benefits. A lump sum settlement is not allowed unless the employer files a notice of denial within 120 days from the date of injury. Prior to approving or disapproving a lump sum settlement, judges of compensation claims must hold a hearing.

EFFECT OF SECTION – *This section would specify that, when a carrier is uncertain of its obligation to pay compensation under chapter 440, the carrier must comply with other provisions of statute that require payment of compensation within 14 days after the employer receives notice of the injury.*

This section would change the 120-day requirement for lump sum settlements so that the 120-day period would begin to run when the employer receives notice of the injury, rather than from the date of the injury. Also, when an attorney represents the claimant, judges would no longer have to approve lump sum settlements, except to approve the amount of the attorney's fees. However, in those circumstances where a judge is required to approve the lump-sum settlement, the judge

would be required to consider whether the allocation of the settlement provides for recovery of child support arrearages. Please see section V.C. of this analysis.

Section 18: Amends s. 440.22, F.S.

PRESENT SITUATION -- Currently, s. 440.22, F.S., exempts workers' compensation benefits from the claims of creditors and prevents creditors from seeking any remedy for the collection of a debt out of workers' compensation benefits. Although, not provided for in statute, a few courts have created an exception to s. 440.22, F.S., for child support and alimony debt.[3]

EFFECT OF SECTION -- *This section adopts the decision in the Bryant case, creating a statutory exception to s. 440.22, F.S., for claims of child support and alimony.*

Section 19: Amends s. 440.25, F.S.

PRESENT SITUATION -- Section 440.25, F.S., establishes timelines and procedures for the conduct of statutorily required mediation conferences. The October 1999 House Committee on Insurance staff report[4] identified mediation as the stage of dispute resolution where the greatest delays occur. Cancellation and rescheduling of mediation conferences contribute to the delay of dispute resolution and increase costs to the parties and the system. Mediation conferences are held at the district office of the judge of compensation claims. This may require participants to travel some distance to attend, incur costs, and lose time from work.

Insolvent claimants may avoid filing fees and certain costs associated with appealing adverse determinations by filing a verified indigency petition. These petitions are served on "all interested parties," including the Division. Any interested party may oppose the indigency petition. The Division rarely succeeds in challenging these indigency petitions.

EFFECT OF SECTION – *The claimant, and the adjuster of the employer or carrier, would be permitted to attend the mediation conference by telephone, or other electronic means, upon agreement of the parties. The judge would be required to enter a final order within 30 days of the final hearing or closure of the record; there is no current statute specifying when the final order must be issued. The judge would be permitted to enter an abbreviated final order in cases where compensability is not denied.*

The parties would be able to request separate findings of fact and conclusions of law. The written consent of the claimant would be required to continue a final hearing, if the final hearing had previously been continued. The statutory authorization for the adoption of local rules of judicial procedure would be repealed. This section would transfer the authority over the training, selection, and listing of public mediators to the Director of the Division of Administrative Hearings. This section also would remove the Division of Workers' Compensation as a party to indigency petitions.

Section 20: Amends s. 440.29, F.S., to conform references to the Chief Judge of Compensation Claims to the provisions of the engrossed bill creating the position of Deputy Chief Judge.

Section 21: Amends s. 440.34, F.S.

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[3] Bryant v. Bryant, 621 So.2d 574 (Fla. 2d DCA 1993).

[4] Committee on Insurance, House of Representatives, State of Florida, "Resolving Workers' Compensation Disputes According to Statutory Time Lines: Policy Options for Consideration," (October 1999). This report is available on Online Sunshine, the Florida Legislature's web site (www.leg.state.fl.us).

PRESENT SITUATION -- An employer or carrier answers the claimant's petition for benefits with a "notice of denial" filed with the Division of Workers' Compensation, even though the employer or carrier does not necessarily deny all of the benefits requested in the petition.

EFFECT OF SECTION -- *In combination with portions of sections 13 and 14, the "notice of denial" would be renamed "response to petition" in those instances where a petition has been filed. The "notice of denial" would remain in use to address requests for benefits prior to the filing of a petition. Also, as part of the transfer of the Office of the Judges of Compensation Claims, the response to petition would be filed with the Office, rather than with the Division of Workers' Compensation.*

Section 22: Amends s. 440.345, F.S., to transfer the reporting of attorney's fees from the Division of Workers' Compensation to the Office of the Judges of Compensation Claims.

Section 23: Amends s. 440.38, F.S.

PRESENT SITUATION

To be authorized to self-insure for workers' compensation, employers are required by law to post a deposit with the Division. See s. 440.38(1)(b), F.S. This deposit can take the form of surety bonds, certificates of deposit, irrevocable letters of credit, direct obligations of the United States Treasury, and securities issued by the State of Florida. The purpose of the deposit is to provide assurance that the self-insured employer has the financial ability to pay compensation benefits to its employees.

Under federal bankruptcy law, monies held as security by the Division in the form of certificates of deposit and securities backed by the federal government and the State of Florida are deemed to be part of the bankrupt estate. Often, the certificates of deposit and direct obligations of the federal and state governments are settled for much less than the face value of the instrument. This precludes the Division from using 100 percent of the face value of the deposit to assist in the payment of workers' compensation claims when a self-insured employer declares bankruptcy. Irrevocable letters of credit and surety bonds, on the other hand, are agreements between a third party and the division and therefore are not a part of the bankruptcy process.

EFFECT OF SECTION

This section would limit the types of security deposits that self-insured employers are authorized to use. This section would eliminate the use of certificates of deposit, U.S. Treasury Notes and Bonds, and securities issued by the State of Florida and backed by the full faith and credit of the state as types of qualifying security deposits.

Section 24: Amends s. 440.44, F.S., to conform provisions of statute to the transfer of the Office of the Judges of Compensation Claims from the Department of Labor and Employment Security to the Division of Administrative Hearings, within the Department of Management Services. This section also requires the Office to maintain the number of district offices, the current judges, and the current public mediators, as they exist on June 30, 2001. The Division of Administrative Hearings would also be given the authority to regulate and destroy records of the Office.

Section 25: Amends s. 440.442, F.S., to eliminate the Workers' Compensation Law's Code of Judicial Conduct and instead require the judges of compensation claims to adhere to the Code of Judicial Conduct adopted by the Supreme Court of Florida.

Section 26: Amends s. 440.45, F.S.

PRESENT SITUATION – Among other things, s. 440.45, F.S., creates the Office of the Judges of Compensation Claims within the Department of Labor and Employment Security; provides for the nomination and appointment of the judges of compensation claims, including the Chief Judge of Compensation Claims to oversee the Office; and provides rulemaking authority; requires docketing review and mediation.

According to Florida law, judges of compensation claims are appointed by the Governor from a list of candidates submitted by the statewide nominating commission. The statewide nominating commission is comprised of five members appointed by the Board of Governors of the Florida Bar, five members appointed by the Governor, and five members selected and appointed by a majority vote of the other 10 members. The nominating commission also evaluates judges up for reappointment and reports its findings to the Governor. The nominating commission is not provided with any specific statutory criteria for measuring the performance of judges of compensation claims.

The October 1999 House Insurance Committee staff report[5] found that judges of compensation claims were not meeting many of the statutory time requirements contained in Chapter 440, F.S.

EFFECT OF SECTION -- *This section would transfer the Office of the Judges of Compensation Claims to the Division of Administrative Hearings. The current term of the Chief Judge would expire on October 1, 2001. The Governor would appoint a Deputy Chief Judge to oversee the Office and report to the Director of the Division of Administrative Hearings who would serve as the head of the Office. The qualifications of the Deputy Chief Judge and the judges of compensation claims would be expanded. The Director of the Division would be given the authority to investigate the conduct of the judges of compensation claims, including the Deputy Chief Judge, and recommend removal or discipline of the judges. Docketing review would be repealed. Reporting requirements would be expanded.*

This section requires the statewide nominating commission, in determining whether a judge of compensation claims has performed satisfactorily, to consider the extent to which the judge of compensation claims has met the requirements of Chapter 440, including, but not limited to, the requirements of: s. 440.25(1) (holding mediation within 21 days of the filing of the petition); s. 440.25(4)(a) (holding the pretrial hearing within 10 days of the conclusion of mediation); s. 440.25(4)(b) (holding and concluding the final hearing within 45 days of the pretrial hearing); s. 440.25(4)(c) (giving parties notice 7 days notice of the final hearing); s. 440.25(4)(d) and (e) (issuing final orders within 14 days setting forth the ultimate findings of fact and the mandate); s. 440.25(4)(f) (submitting special reports to the Chief Judge when final orders are not issued within 14 days); s. 440.34(2) (listing the amount, statutory basis, and type of benefits obtained on all attorney's fees awarded); and s. 440.442 (meeting the Code of Statewide Conduct). However, the commission must ask the Legislature to review any statutory requirement that judges generally do not meet for reasons beyond their control.

In addition, this section would direct the Office of the Judges of Compensation Claims to develop rules for gathering the data necessary for the statewide nominating commission to conduct its review of judges' performance. This section would also authorize the Governor to appoint judges of compensation claims an interim basis. The temporary appointment could not last more than 120 days.

Section 27: Amends s. 440.47, F.S, to conform references to the Chief Judge of Compensation Claims to the provisions of the engrossed bill creating the position of Deputy Chief Judge and

[5] Id.

transferring the Office of the Judges of Compensation Claims to the Division of Administrative Hearings.

Section 28: Amends s. 440.59, F.S., conform references to the Department of Labor and Employment Security to the proposed transfer of the Office of the Judges of Compensation Claims to the Division of Administrative Hearings and repeal certain Division reporting requirements, including the quarterly injury report and the annual mediation report (section 24 of the engrossed bill provides for additional reporting requirements).

Section 29: Amends s. 440.593, F.S.

PRESENT SITUATION -- Presently, s. 440.185(7), F.S., requires carriers to file policy information (sometimes referred to as "proof of coverage" data) with the Division. Pursuant to ss. 440.185(7) and 440.42(2), F.S., carriers are also required to file all notices of policy cancellation and expiration with the Division. Carriers meet these statutory requirements by making a paper filing of this information. In addition to this paper filing, however, carriers report this same information to rating organizations, such as the National Council on Compensation Insurance, for ratemaking purposes. Due to the more advanced technology of the rating organizations, this latter filing is usually made electronically.

The Division has rulemaking authority to establish forms and set deadlines for the submission of electronic information. According to the Division, it does not have the ability to assure the integrity of data and lacks the authority to enforce compliance with forms and deadlines for submission of electronic information.

EFFECT OF SECTION -- *The Division would be authorized to require carriers or vendors submitting certain data electronically to be certified by the Division and meet certain performance standards, subject to a civil penalty of up to $500.*

Sections 30, 31, 32, and 33: Amends ss. 489.114, 489.115, 489.510, and 489.515, F.S.

PRESENT SITUATION -- Under Florida law, one of the prerequisites for obtaining a contractor's license under Chapter 489 is to have proof of workers' compensation coverage or proof of a workers' compensation exemption granted under s. 440.105, F.S. Under Florida law, one of the prerequisites for obtaining a workers' compensation exemption is to show proof of a contractor's license. Thus, based on a strict reading of the law, a person could not meet simultaneously the prerequisites for a contractor's license or a workers' compensation exemption.

EFFECT OF SECTION -- *These sections would resolve this conflict by allowing an applicant for a contractor's license to present an affidavit attesting that the applicant meets the requirements for an exemption pursuant to s. 440.105, F.S., and that he or she will obtain an exemption within 30 days after the license is issued.*

Section 34: Amends s. 627.0915, F.S.

PRESENT SITUATION – The state no longer mandates safety committees and safety programs. Under the federal Occupational Safety and Health Act, the state is generally without the authority to regulate safety at private workplaces. However, statute allows the Insurance Commissioner to approve rating plans that provide workers' compensation premium discounts for the implementation of safety programs. Current statute references safety programs approved by the now defunct Division of Safety. There is no provision of law that provides guidance as to which safety programs qualify for workers' compensation premium discounts.

EFFECT OF SECTION – *This section would provide for workers' compensation premium discounts for safety programs implemented under the provisions of the rating plan.*

Section 35: Amends s. 627.311, F.S.

PRESENT SITUATION -- Board members of the FWCJUA are insulated from liability for monetary damages for any vote, decision, or failure to act regarding the management or policies of the plan, unless the member's breach or failure to perform constitutes a violation of criminal law. The law goes further to provide that even where a board member's breach or failure to perform constitutes a violation of criminal law, the board member is not liable for monetary damages if the member "had reasonable cause to believe her or his conduct was unlawful." As a result, current law appears to grant civil immunity to a FWCJUA board member if the board member reasonably believed he or she was committing a crime. This is an inadvertent drafting error.

EFFECT OF SECTION -- *This section would correct the inadvertent error by inserting the word "not" before the word "unlawful." As a result, under this section a board member of the FWCJUA would receive immunity from civil liability only where the board member reasonably believed his or her conduct was not criminal.*

Section 36: Amends s. 627.914, F.S.

PRESENT SITUATION -- Section 627.914, F.S., requires workers' compensation insurers and self-insurance funds to file certain premium, dividend, and loss data to the Department of Insurance by April 1st of each year. The Legislature established this requirement in 1978, when the Department used this information to evaluate rates. Since then, statistical agents and rating organizations have collected calendar year-accident data, which has been used in ratemaking since the early 1980's. The Department no longer uses the information provided by insurers because the validity of the data is questionable and the same information is available from statistical agents and rating organizations. Therefore, the collection of this data from insurers is duplicative.

EFFECT OF SECTION -- *Effective July 1, 2001, this section eliminates the requirement that workers' compensation insurers report premium and loss data to the Department of Insurance. Other than changing the reporting date from April 1st to July 1st, this section would not affect the requirement that insurers, through their statistical agent or rating organization, report payroll, manual premiums, losses by classification, and expenses. Self-insurance funds would also be required to transmit the required information. According to the Department, this would conform statute to current practice since self-insurance funds presently transmit similar information. This section also would delete an obsolete statutory reference to a report required to be submitted by the Department in 1986.*

Section 37: Transfers the Office of the Judges of Compensation Claims from the Department of Labor and Employment Security to the Division of Administrative Hearings, within the Department of Management Services, by a type two transfer under s. 20.06(2), F.S. This section also transfers 18 positions from the Department of Labor and Employment Security to the Office of the Judges of Compensations Claims, as transferred, to provide administrative support services.

Section 38: Except as otherwise provided in the engrossed bill, this section provides an effective date of October 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Recurring:	FY 2001-02	FY 2002-03
Department of Labor and Employment Security Division of Workers' Compensation		
Workers Compensation Administration Trust Fund		
Privatize proof of coverage, (14) FTEs	($661,429)	($881,906)
Eliminate Division involvement in insolvency petitions, (1) FTE	($130,614)	($174,152)
Total -- (15) FTEs	($792,043)	($1,056,058)

The engrossed bill could, however, result in other changes in expenditures of an indeterminate amount. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The engrossed bill could result in reduced expenditures of an indeterminate amount. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The engrossed bill could result in lower costs to private carriers and, consequently, could translate into lower premiums for private employers. The engrossed bill makes several efficiency-type changes such as: authorizing carriers to pay benefits electronically; revising and authorizing the privatization of certain reporting requirements to the Division; revising and eliminating certain duplicative reporting requirements; and authorizing the Governor to appoint temporary judges of compensation claims where vacancies and backlogs occur. These changes could result in carriers becoming more efficient and expending fewer funds in complying with reporting requirements. Authorizing temporary judges of compensation claims could also prevent delays in litigation, which could reduce expenses for all private litigants.

D. FISCAL COMMENTS:

The engrossed bill transfers the Office of the Judges of Compensation Claims from the Department Labor and Employment Security to the Division of Administrative Hearings of the Department of

Management Services. This unitary transfer will move 179 FTE positions from the Department of Labor and Employment Security to the Division of Administrative Hearings. Another 18 FTE positions are moved from the Division of Workers' Compensation of the Department of Labor and Employment Security to the Office of the Judges of Compensation Claims. Even though these FTEs are moved, they remain part of separate budget entities that are funded by the Workers' Compensation Administration Trust Fund. The transfer of these FTE positions should be fiscally neutral.

Relevant to the $792,043 in recurring savings identified in Section III A. 2. above, the Division indicates that the privatization of the proof of coverage function would allow the elimination of 14 FTEs. Also, the Division indicates that the elimination of the Division's involvement in insolvency petitions would result in the elimination of 1 FTE. The Division states that they anticipate that there would be little or no costs associated with the privatization of proof of coverage. According to the Division, any incidental costs that occur can be handled within present appropriations. Please see section 12 of the section-by-section analysis for a discussion of the privatization of proof of coverage.

The engrossed bill could result in the expenditure of an indeterminate amount of funds from the Workers' Compensation Administration Trust Fund to pay for temporary judges of compensation claims when vacancies occur. The amount is indeterminate because it is unknown how many vacancies will occur, thereby necessitating the appointment of a temporary judge of compensation claims. It is possible, however, that the cost of a temporary judge of compensation claims could be offset by the benefit of preventing large backlogs of cases which occurs when a judge's position remains vacant.

The engrossed bill authorizes the Director of the Division of Administrative Hearings to investigate complaints against the judges of compensation claims and recommend removal or discipline of the judges. This is a new responsibility that may require additional staffing for the Division of Administrative Hearings. This may require an indeterminate expenditure of funds from the Workers' Compensation Administration Trust Fund.

The engrossed bill could also result in reduced expenditures for state and local government of an indeterminate amount. The engrossed bill makes several efficiency-type changes to the workers' compensation law which could result in lower costs to: the State of Florida (Department of Insurance, Division of Risk Management) as an employer; local government entities as employers; and to the Division of Workers' Compensation as the administrator of the workers' compensation system. For example, authorizing the electronic payment of benefits to injured workers and reducing the volume of medical bills required to be filed could lower the Division of Risk Management's (and local government employer's) expenses in handling workers' compensation cases involving injured state (and local government) workers. Net decreases in the cost of system administration would result in a proportionate decrease in assessments on carriers. However, as a whole, the exact amount of savings attributable to the engrossed bill could not be determined.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This engrossed bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This engrossed bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This engrossed bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Section 440.45(5), F.S., currently directs the Office of the Judges of Compensation Claims to promulgate rules relating to dispute resolution and uniform criteria for measuring the performance of the office, including, but not limited to, the number of cases assigned and disposed, the age of pending cases, and the timeliness of decisionmaking.

The engrossed bill amends s. 440.45(5), F.S., by adding to this rulemaking authority, the requirement that the Office of the Judges of Compensation Claims gather the data necessary for the statewide nominating commission to conduct its review of judges as required in s. 440.45(2)(c), F.S. (which is also amended in the engrossed bill).

The engrossed bill authorizes the Division to prescribe penalties of up to $500 for violations of reporting deadlines and standards for data submitted electronically.

C. OTHER COMMENTS:

Several provisions of the engrossed bill were also proposed in other bills. The engrossed bill:

- is nearly identical to the Senate companion, CS/SB 1926.
- contains an exception to workers' compensation coverage requirements for certain "sports officials" also proposed by HB 227 and SB 1728
- transfers the Office of the Judges of Compensation Claims to the Division of Administrative Hearings of the Department of Management Services as was proposed in subsection (3) of section 1 of both 2nd Eng./HB 1655 and CS/CS/CS SB 2224.
- addresses the same statutory provisions regarding child support in relation to workers' compensation benefits as HB 1869 and CS/SB 1284, 2nd Eng.
- made changes that were also proposed as part of more comprehensive workers' compensation reform bills, specifically HB 1775, CS/HB 1927, 2nd Eng., CS/SB 1188, and SB 2266.

This engrossed bill and CS/SB 1284, 2nd ENG. (Chapter 2001-xxx, L.O.F.), each contain provisions amending the same four sections of statute in relation to workers' compensation benefits and the recovery of support obligations. Both enactments amend ss. 61.14(8)(a) and (b), 61.30(2)(a), 440.20(11)(d), and 440.22, F.S. The amendments to ss. 61.30(2)(a) and 440.22, F.S., are substantively identical. The amendments to ss. 61.14(8)(a) and 440.20(11)(d), F.S., may conflict.

Section 1.04, F.S. requires that legislation passed in the same legislative session and amending the same statutory provision must be construed together and should be given full effect, if possible. If the two provisions cannot be construed together, the provisions of the measure that was passed last in time would supersede to the extent of the conflict. The engrossed bill was enacted on May 4, 2001, while CS/HB 1284, 2nd ENG., was enacted on May 3, 2001.

The engrossed bill would require judges of compensation claims to *consider* whether the allocation of the lump-sum settlement provides for the recovery of child support arrearages. However, CS/SB 1284, 2nd ENG., would require approved lump-sum settlements to *provide* for appropriate recovery of past due support (i.e., child support and spousal support). Under CS/SB 1284, 2nd ENG., the scope of the support the judge must consider is substantively different (e.g., child support and spousal support in CS/SB 1284, 2nd ENG., rather than only child support in CS/HB 1803, 3rd ENG.), and recovery of support, as part of the settlement, is mandatory.

The bill that was passed last in time, CS/HB 1803, 3rd ENG., would require the judge to *consider* whether the lump-sum settlement allocation provides for recovery of past due *child support*.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House of Representatives adopted several amendments to the council substitute on second and third readings and concurred in five amendments adopted by the Senate. CS/HB 1803, 3rd Engrossed, differs from the council substitute in that the CS/HB 1803, 3rd Engrossed, would:

- preserve the ability of an injured worker to receive a one-time change of physician if the employer chooses to deliver medical benefits without a managed care arrangement.
- eliminate a drafting error and eliminate certain minor differences between the council substitute and other pending legislation.
- require responses to petitions to be filed with the Office of the Judges of Compensation Claims, rather than with the Division of Workers' Compensation.
- require public employers, as a condition of receiving a workers' compensation premium credit for work place safety, to have a workplace safety program containing certain specified components.
- specifically limit investigations of the judges of compensation claims by the Director of the Division of Administrative Hearings to the provisions of the Code of Judicial Conduct.
- eliminate proposed language requiring the District Court of Appeal, First District, to hear workers' compensation appeals in a separate panel.
- eliminate a cross-reference to s. 440.192(2), F.S., in relation to statewide nominating commission's evaluation of the performance of the judges of compensation claims.
- provide the Director of the Division of Administrative Hearings, rather than the Deputy Chief Judge, with the authority to supervise the selection, training, and listing of public mediators.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Eric Lloyd	Stephen Hogge

AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:	Staff Director:
Leonard Schulte	Hubert "Bo" Bohannon

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON INSURANCE:

Prepared by:	Staff Director:
Eric Lloyd	Stephen T. Hogge