Florida Senate - 2005

By Senator Smith

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14-750-05
 1
                        A bill to be entitled
 2
           An act relating to workers' compensation fraud;
           amending s. 440.015, F.S.; declaring
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 4
           legislative intent to aggressively prosecute
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           workers' compensation fraud; amending s.
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           440.105, F.S.; providing for funding additional
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           positions in state attorneys' offices to
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           investigate and prosecute cases of workers'
           compensation fraud; providing an effective
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           date.
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   Be It Enacted by the Legislature of the State of Florida:
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           Section 1. Section 440.015, Florida Statutes, is
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    amended to read:
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           440.015 Legislative intent. -- It is the intent of the
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   Legislature that the Workers' Compensation Law be interpreted
    so as to assure the quick and efficient delivery of disability
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    and medical benefits to an injured worker and to facilitate
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    the worker's return to gainful reemployment at a reasonable
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   cost to the employer. It is the specific intent of the
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   Legislature that workers' compensation cases shall be decided
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    on their merits. The workers' compensation system in Florida
    is based on a mutual renunciation of common-law rights and
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   defenses by employers and employees alike. In addition, it is
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    the intent of the Legislature that the facts in a workers'
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    compensation case are not to be interpreted liberally in favor
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   of either the rights of the injured worker or the rights of
    the employer. Additionally, the Legislature hereby declares
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    that disputes concerning the facts in workers' compensation
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   cases are not to be given a broad liberal construction in
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1	favor of the employee on the one hand or of the employer on
2	the other hand, and the laws pertaining to workers'
3	compensation are to be construed in accordance with the basic
4	principles of statutory construction and not liberally in
5	favor of either employee or employer. It is the intent of the
б	Legislature to ensure the prompt delivery of benefits to the
7	injured worker. Therefore, an efficient and self-executing
8	system must be created which is not an economic or
9	administrative burden. The department, agency, the Office of
10	Insurance Regulation, the Department of Education, and the
11	Division of Administrative Hearings shall administer the
12	Workers' Compensation Law in a manner which facilitates the
13	self-execution of the system and the process of ensuring a
14	prompt and cost-effective delivery of payments. <u>To further</u>
15	protect employees, employers, and the workers' compensation
16	system, it is the intent of the Legislature that the state
17	aggressively pursue the prosecution of cases involving
18	workers' compensation fraud.
19	Section 2. Paragraph (a) of subsection (1) of section
20	440.105, Florida Statutes, is amended to read:
21	440.105 Prohibited activities; reports; penalties;
22	limitations
23	(1)(a) Any insurance carrier, any individual
24	self-insured, any commercial or group self-insurance fund, any
25	professional practitioner licensed or regulated by the
26	Department of Health, except as otherwise provided by law, any
27	medical review committee as defined in s. 766.101, any private
28	medical review committee, and any insurer, agent, or other
29	person licensed under the insurance code, or any employee
30	thereof, having knowledge or who believes that a fraudulent
31	act or any other act or practice which, upon conviction,

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1 constitutes a felony or misdemeanor under this chapter is 2 being or has been committed shall send to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud, a 3 report or information pertinent to such knowledge or belief 4 and such additional information relative thereto as the bureau 5 6 may require. The bureau shall review such information or 7 reports and select such information or reports as, in its 8 judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such 9 10 information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice 11 12 which, upon conviction, constitutes a felony or a misdemeanor 13 under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations 14 disclose to the appropriate licensing agency and state 15 attorney or other prosecuting agency having jurisdiction with 16 17 respect to any such violations of this chapter. If prosecution 18 by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun 19 within 60 days of the bureau's report, the state attorney or 20 21 other prosecuting agency having jurisdiction with respect to 22 such violation shall inform the bureau of the reasons for the 23 lack of prosecution. The Legislature shall annually appropriate funds sufficient to provide for one assistant 2.4 25 state attorney position each in the Eleventh, Fifteenth, and Seventeenth Judicial Circuits and funds sufficient to fund 26 27 one-half of an assistant state attorney position in the state 2.8 attorney's office in each of the remaining judicial circuits for the purpose of aggressively investigating and prosecuting 29 30 violations of this section. 31

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Section 3. This act shall take effect upon becoming a law. SENATE SUMMARY Declares legislative intent that the offense of workers' compensation fraud be prosecuted more aggressively. Directs the Legislature to appropriate funds for an assistant state attorney in the Eleventh, Fifteenth, and Seventeenth, and for half of an assistant state attorney position in each of the other circuits, to investigate and prosecute workers' compensation fraud cases.

SB 980

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