

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Chapter 440, F.S., is Florida's "Workers' Compensation Law." The Division of Workers' Compensation (the Division) in the Department of Financial Services (DFS) is organized into the following program/function areas: (Employer) Compliance; Monitoring and Audit (of insurance companies and self-insured entities); Employee Assistance (to injured workers); and Data Quality and Collection.

Additionally, since November 2005, pursuant to an interagency agreement between DFS and the Agency for Health Care Administration (AHCA), the Division has also assumed day-to-day responsibility from AHCA for responsibilities relating to workers' compensation medical services and supplies, including:

- Certification of health care providers to treat injured workers.¹
- Certification of Expert Medical Advisors.²
- Determination of whether any health care provider has engaged in a pattern or practice of overutilization or a violation of Workers' Compensation Law or AHCA rules.³
- Resolution of reimbursement and utilization disputes concerning medical services.⁴

This bill formally transfers the above-mentioned responsibilities from AHCA to DFS, pursuant to a type two transfer, effective July 1, 2008. With this transfer, virtually all workers' compensation programs and services in Florida will be administered by the Division.⁵

Type One and Type Two Transfers

Section 20.06, F.S., provides the method by which reorganization of the executive branch is to occur. The section provides for two methods of transfer:

Type One Transfer -- In this type of transfer, an existing agency or department is transferred intact to another agency or department by becoming a unit of the agency or department to which it is transferred. When an agency or department is transferred intact to another agency or department, the transferred agency or department exercises its powers, duties, and functions subject to review and approval by, and under the direct supervision of, the head of the agency or department to which the transfer is made, unless otherwise provided by law.

Under a type one transfer, the transferred agency or department which becomes a unit of another agency or department has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds transferred to the agency or department to which it is transferred. When segregated funds are transferred, the transfer must be completed in such a fashion that the relation between the program and the revenue source as is provided by law is retained.

Additionally, under a type one transfer, the administrative rules of the agency or department transferred remain in effect until specifically changed.

¹ Section 440.13(3)(a), F.S.

² Section 440.13(9), F.S.

³ Section 440.13(8), F.S.

⁴ Section 440.13(7), F.S.

⁵ The Division's website, <http://www.fldfs.com/wc/organization.html>, identifies the Bureau of Rehabilitation & Reemployment Services as the only other state agency with a workers' compensation program and service.

Type Two Transfers -- This type of transfer applies not only to agencies and departments that are transferred, but also to the transfer of specific programs, activities, functions, units or subunits within an agency or department. Under a type two transfer, an agency, a department, program, activity, function, identifiable unit or subunit is merged into another agency or department.

The merged agency, department, program, activity, function, unit, or subunit retains all its statutory powers, duties, and functions under a type two transfer. Its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred to the agency with which it is merged, except those transferred elsewhere or abolished. The transfer of segregated funds must be made in such a manner that the relation between the program and the revenue source that is provided by law is retained.

Unless otherwise provided by law, the head of the agency or department to which an existing agency, department, program, activity, function or unit is transferred is authorized to establish units or subunits to which the agency or department is assigned. Further, the head of the receiving agency may assign administrative authority for identifiable programs, activities, or functions, to the extent authorized by law.

Unless otherwise provided, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed.

C. SECTION DIRECTORY:

Section 1. Provides for a type two transfer with respect to the provision of workers' compensation medical services and supplies from the Agency for Health Care Administration to the Department of Financial Services.

Section 2. Amends 440.13, F.S., concerning workers' compensation medical services and supplies, to make conforming changes.

Section 3. Amends 440.125, F.S., concerning workers' compensation medical records and reports, to make conforming changes.

Section 4. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply because this bill does not: require counties or municipalities to spend funds or to take an action requiring expenditure of funds; reduce the authority that municipalities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

Transfers to the Department of Financial Services the authority to adopt rules to implement the certification of workers' compensation health care providers, and to carry out its responsibilities to resolve utilization and reimbursement disputes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES