

# Chapter 96-399

## Committee Subsitute for Senate Bill Nos. 1626 & 1654

An act relating to state government; authorizing state agencies to institute pilot projects for managerial flexibility in personnel programs; establishing qualifying criteria; requiring plans and reports; limiting the time for such projects; requiring approval; amending s. 110.112, F.S.; deleting submission of certain information relating to affirmative action; revising a reporting requirement; amending s. 110.1127, F.S.; deleting reference to the Department of Management Services with respect to employee security checks; amending s. 110.114, F.S.; clarifying provisions concerning employee wage deductions; amending s. 110.117, F.S.; providing for the Governor, instead of the Department of Management Services, to declare a day of mourning for a deceased state or federal employee; amending s. 110.124, F.S.; providing for termination of, rather than retirement of, certain employees aged 65 or older, under certain circumstances; amending s. 110.1245, F.S.; clarifying provisions governing grants of meritorious service awards; increasing certain award limits; amending s. 110.131, F.S.; removing the cap on total hours other-personal-services temporary employment may be extended; providing for agency head or designee approval; amending s. 110.1523, F.S.; deleting obsolete provisions relating to adoption of a model rule governing family support personnel policies; conforming a cross-reference; amending s. 110.171, F.S.; deleting a reference to rulemaking; revising provisions concerning the state employee telecommuting program and concerning elements required for adoption of the program; amending s. 110.207, F.S.; providing for a review by the Department of Management Services of the model classification plan established by the Department of Transportation; providing for a report; removing notification requirements concerning certain classification or reclassification actions; amending s. 110.209, F.S.; revising provisions governing guidelines for pay plans; amending s. 110.21, F.S.; prohibiting certain agency action concerning positions that are and are not shared- employment positions; amending s. 110.2135, F.S.; providing for preference in employment, reemployment, promotion, and retention; amending s. 110.217, F.S.; adding requirements for eligibility for appointment and promotion; amending s. 110.219, F.S.; removing redundant provisions; amending s. 110.227, F.S.; authorizing personal delivery of notice of suspension, dismissal, reduction in pay, demotion, layoff, or transfer to an employee; amending s. 110.403, F.S.; deleting certain rules for Senior Management Service; amending s. 110.406, F.S.; deleting requirements for Senior Management Service reports to the Legislature and Governor; amending s. 110.407, F.S.; requiring performance audits of the department every 4 years instead of biennially; amending s. 110.605, F.S.; applying a uniform performance appraisal system only to employees and positions in the Selected Exempt Service covered by a collective bargaining agreement; deleting provisions relating to recruiting procedures; amending s. 110.606, F.S.; deleting requirements for Selected Exempt Service reports to the Legislature and Governor; amending s. 110.607, F.S.; requiring performance audits of the Selected Exempt Service every 4 years instead of biennially;

amending s. 216.262, F.S.; clarifying provisions; authorizing delegation of certain authority to agency heads concerning authorized positions in state government; amending ss. 110.1232, 110.1521, 110.1522, 240.209, F.S.; conforming cross-references; amending ss. 17.325, 110.1097, 110.1099, 110.12315, 112.24, 402.50, 760.04, F.S.; replacing references to Department of Administration, which was abolished by ch. 92-279, Laws of Florida, with Department of Management Services; amending s. 447.207, F.S., to conform; repealing s. 110.1231, F.S., relating to health care insurance for persons retired under state-administered retirement systems before January 1, 1976, and their surviving spouses; repealing s. 110.1524, F.S., relating to appointment and duties of advisory committee to agency heads concerning family support personnel policies; amending s. 112.061, F.S.; authorizing state travelers to use jet airplane service under specified circumstances; amending s. 110.1128, F.S.; providing discretionary authority for the Department of Management Services to adopt rules necessary to carry out the administration of the requirements of selective service registration; amending s. 110.201, F.S.; requiring the department, in consultation with affected agencies, to develop personnel rules, guidelines, records, and reports relating to employees and positions in the career service; providing for review and approval by the Administration Commission; creating s. 110.1121, F.S.; providing that it is the policy of the state that sexual harassment is a form of discrimination; requiring the department to adopt uniform sexual harassment rules applicable to all executive agencies; requiring the rules to define sexual harassment in a manner consistent with the federal definition; amending s. 110.217, F.S.; requiring the department, in consultation with affected agencies, to develop uniform model appointment and promotion rules that must be used by employing agencies; authorizing exceptions; deleting a requirement that each employing agency is responsible for the establishment and maintenance of rules and guidelines for determining eligibility of applicants for appointments to positions in the career service; amending s. 110.503, F.S.; requiring each department or agency that uses the services of volunteers to comply with uniform rules adopted by the department; amending s. 255.25, F.S.; requiring the Department of Management Services to adopt, as a rule, uniform leasing procedures; deleting a requirement that each state agency develop procedures and adopt rules to ensure that the leasing practices of that agency are in substantial compliance with rules adopted by the department; amending s. 287.055, F.S.; deleting a requirement that agencies prescribe by rule procedures for the determination of a project involving a fixed capital outlay study or planning activity; deleting a requirement that each agency adopt rules for the evaluation of professional services; requiring the department to adopt rules for the award of design-build contracts to be followed by state agencies; requiring agencies to conduct a periodic review of their rules and to report to the Legislature; amending s. 768.1355, F.S.; revising provisions of the Florida Volunteer Protection Act to provide that specified stipends and financial assistance do not constitute "compensation" for purposes of the act; providing specified immunity for certain elected and appointed members of boards, councils, and commissions; amending s. 110.501, F.S.; revising the definition of "volunteer"; amending s. 110.502, F.S.; revising provisions relative to the utilization of volunteer services by state departments and agencies; amending s. 110.504, F.S.; authorizing the provision of specified benefits and awards to certain volunteers; providing that volunteers under part IV of ch. 110, F.S., shall be covered by the Florida Volunteer Protection Act; amending s. 110.205, F.S.;

amending the categories of exempt positions which are not covered by part II of ch. 110, F.S.; providing an effective date.

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

Section 1. [FN1] Personnel Pilot Projects.—

(1) It is the intent of the Legislature to encourage greater efficiency and effectiveness of state government through improvements in the delivery of services and the administration of government programs. Therefore, the Legislature intends to grant, on a pilot basis, managerial flexibility for the personnel programs of selected state agencies. An agency must have developed and submitted a performance-based budget, including performance measures, before submitting a plan for a personnel flexibility pilot project, unless such plan is otherwise approved for implementation by the Legislature.

(2) Each agency seeking managerial flexibility for its personnel programs shall develop a plan for its pilot project. A project may not exceed 3 years in duration absent specific legislative approval. The pilot project plan must include, at a minimum:

(a) The goals and objectives of the project;

(b) Baseline performance data on the personnel functions to be affected by the project, including a description of how the data will be measured and tracked throughout the project;

(c) A specific description of the current law, rule, or procedure that the pilot project is designed to address along with a proposal for changing the law, rule, or procedure; and(d) A description of how the pilot program may be applicable to other state agencies.

(3) An agency shall submit its plans for a pilot project to the Legislature by February 1 in order for the project to be considered during the regular legislative session. The Legislature shall grant approval for the pilot project, either by general act, or through proviso in the General Appropriations Act.

(4) After the Legislature approves a plan for a personnel flexibility pilot project, the agency must prepare and submit a progress report to the Legislature and the Division of Personnel Management Services of the Department of Management Services every 6 months, or sooner, if so requested by the Legislature. Upon completion of the pilot project, the agency shall prepare and submit a final report on the project within 6 months of termination of the project.

Section 2. Subsection (2) of section 110.112, Florida Statutes, is amended to read:

110.112. Affirmative action; equal employment opportunity

(2)(a) The head of each executive agency shall develop and implement an affirmative action plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption.

(b) Each executive agency shall establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market, as defined by the agency. Each executive agency shall design its affirmative action plan to meet its established goals.

(c) An affirmative action-equal employment opportunity officer shall be appointed by the head of each executive agency. The affirmative action-equal employment opportunity officer's responsibilities must include determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action.

~~(d) Each executive agency shall submit its affirmative action plan and annual goals to the department on or before October 1 of each year for technical review and assistance.~~

~~(d)(e)~~ The department shall report ~~annually on or before February 1 of each year~~ to the Governor on the implementation, continuance, updating, and results of each executive agency's affirmative action plan for the previous fiscal year.

~~(e)(f)~~ The department shall provide to all supervisory personnel of the executive agencies training in the principles of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and the establishment of annual affirmative action goals. The department may contract for training services, and each participating agency shall reimburse the department for costs incurred through such contract. After the department approves the contents of the training program for the agencies, the department may delegate this training to the executive agencies.

~~(g) Each executive agency shall submit to the department, as a part of its annual affirmative action plan, as provided in paragraph (d), a list of the supervisory personnel to be trained pursuant to paragraph (f) and the time period within which the training will be provided.~~

Section 3. Subsection (1) of section 110.1127, Florida Statutes, is amended to read:

#### 110.1127. Employee security checks

~~(1) Each employing agency, with the approval of the Department of Management Services, shall designate such of its positions of state employment which, because of the special trust or responsibility or sensitive location of such positions, require that persons occupying such positions be subject to a security background check, including fingerprinting, as a condition of employment.~~

Section 4. Subsection (1) of section 110.114, Florida Statutes, is amended to read:

#### 110.114. Employee wage deductions

(1) The state or any of its departments, bureaus, commissions, and officers are authorized and permitted, with the concurrence of the Department of Banking and Finance, to make deductions from the salary or wage of any employee or employees in such amount as shall be authorized and requested by such employee or employees and for such purpose as shall be authorized and requested by such employee or employees and shall pay such sums so deducted as directed by such employee or employees. The concurrence of the Department of Banking and Finance shall not be required for the deduction of a certified bargaining agent's membership dues deductions pursuant to s. 447.303 or any deductions authorized required by a collective bargaining agreement.

Section 5. Subsection (2) of section 110.117, Florida Statutes, is amended to read:

#### 110.117. Paid holidays

(2) The Governor department may declare, when appropriate, a state day of mourning in observance of the death of a person in recognition of service rendered to the state or nation.

Section 6. Subsections (1) and (2) of section 110.124, Florida Statutes, are amended to read:

#### 110.124. Termination Retirement or transfer of employees aged 65 or older

(1) An employee of the state who is within the Career Service System established by part II, or who is protected by any other merit system plan or system providing for tenure, may not be terminated retired by the agency or department in which he or she is employed solely because of attainment of age 65. Such employee may be terminated retired if the agency or department specifies charges or other cause for such termination retirement. The attainment of age 65 or older shall not be considered as such specified cause for termination retirement. If an employee continues in employment beyond age 65, the agency or department shall not be required to justify such continuation in employment.

(2) Whenever any employee who has attained age 65 is terminated retired by an agency or department solely because the employee attains age 65, the employee may apply for relief from the action to the Public Employees Relations Commission pursuant to s. 447.208. The employee shall continue in employment pending the outcome of the application. If the employee continues in employment following the decision of the commission, no further action shall be taken by the agency or department to terminate retire the employee for a period of 1 year following the date of the decision of the commission unless approved by the commission upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department.

Section 7. Subsection (1) and paragraph (f) of subsection (2) of section 110.1245, Florida Statutes, are amended to read:

#### 110.1245. Meritorious service awards program

(1) The Department of Management Services shall set policy, develop procedures, and promote a program of meritorious service awards, incentives, and recognition to employees who:

(a) Propose procedures or ideas which are adopted and which will result in increasing productivity, in eliminating or reducing state expenditures or improving operations, or in generating additional revenues, provided such proposals are placed in effect and can be implemented under current statutory authority; or

(b) By their superior accomplishments, make exceptional contributions to the efficiency, economy, or other improvement in the operations of the state government. Every state agency, unless otherwise provided by law, shall participate in the program. The Chief Justice shall have the authority to establish a meritorious service awards program for employees of the judicial branch within the parameters established in this section. The component of the program specified in paragraph (a) shall apply to all employees within the Career Service System, the Selected Exempt Service System, and comparable employees within the judicial branch. The component of the program specified in paragraph (b) shall apply to all employees of the state. No award granted under the component of the program described in paragraph (a) shall exceed 10 percent of the first year's actual savings or actual revenue increase, up to \$25,000 \$5,000, plus applicable taxes, unless a larger award is made by the Legislature, and shall be paid from the appropriation available to the judicial branch or state agency affected by the award or from any specific appropriation therefor. No award granted under the component of the program described in paragraph (b) shall exceed \$1,000 plus applicable taxes per individual employee. The judicial branch or an agency may award savings bonds or other items in lieu of cash awards, provided that the cost of such item does not exceed the limits specified in this subsection. In addition, the judicial branch or a state agency may award certificates, pins, plaques, letters of commendation, and other tokens of recognition of meritorious service to an employee eligible for recognition under either component of the program, provided that the award may not cost in excess of \$75 \$50 each plus applicable taxes.

(2) The department and the judicial branch shall submit to the President of the Senate and the Speaker of the House of Representatives by April 1 of each year a report which outlines each agency's level of participation in the meritorious service awards program. The report shall include, but not be limited to:

(f) The number of employees recognized for ~~continuous~~ satisfactory service to the state.

Section 8. Subsection (2) of section 110.131, Florida Statutes, is amended to read:

#### 110.131. Other-personal-services temporary employment

(2) An ~~No~~ agency may employ any individual in other- personal-services temporary employment for ~~more than~~ 1,040 hours within any 12-month period ~~without the approval of the agency head. An agency head may extend such employment for no more than 1,040 hours.~~ An extension beyond a total of 1,040 ~~2,080~~ hours within an agency for any individual ~~requires shall require~~ the approval of the agency head or a designee ~~department~~. Approval of extensions shall be made in accordance with criteria established by the department. Each agency shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment. The time limitation established by this subsection does not apply to board members, consultants, seasonal employees, institutional clients employed as part of their rehabilitation, or bona fide, degree-seeking students in accredited secondary or postsecondary educational programs.

Section 9. Section 110.1523, Florida Statutes, is amended to read:

110.1523. Adoption of model rule

~~The Department of Administration shall publish such model rule in the Florida Administrative Weekly by July 1, 1991, and proceed to adopt a model rule without undue delay pursuant to chapter 120.~~ The model rule shall be effective 20 days after having been filed with the Department of State and shall become part of the personnel rules of all applicable state agencies 150 days after the effective date of the rule to the extent that each agency does not, subsequent to such effective date, adopt a rule that sets forth the intent to specifically amend all or part of such model rule. Any employee or organization representing employees shall be considered a party for purposes of any rule required by ss. 110.1521-110.1523 ~~110.1521-110.1524~~, notwithstanding any provision of chapter 120 to the contrary.

Section 10. Paragraphs (c) and (d) of subsection (2) and paragraphs (e), (f), (l), and (m) of subsection (3) of section 110.171, Florida Statutes, are amended to read:

110.171. State employee telecommuting program

(2) The department shall:

~~(e) Adopt administrative rules necessary to administer the state employee telecommuting program.~~

~~(d) Develop telecommuting guidelines for state agencies to follow which, at a minimum, must include:~~

~~1. A description of the procedures and criteria to be used to identify employees that are to participate.~~

~~2. The proposed training requirements for those employees who will participate.~~

(3) By October 1, 1994, each state agency shall identify and maintain a current listing of the job classifications and positions that the agency considers appropriate for telecommuting. Agencies that adopt a state employee telecommuting program must:

(e) Provide that an employee is not currently under a performance improvement plan ~~have at least a current satisfactory performance appraisal~~ in order to participate in the program.

(f) Ensure that employees participating in the program are subject to the same rules regarding attendance, leave, performance reviews ~~appraisals~~, and separation action as are other employees.

~~(l) Require employees to arrange for a firesafety inspection of the home with the local fire department to be conducted within 30 days after signing a telecommuting agreement, including the submission of the inspection report to the employee's supervisor to be filed with the agreement, as well as the~~

~~employee's installation of adequate smoke detectors and fire extinguishers in the proximity of the home office.~~

~~(l)(m) Require a written agreement that specifies the terms and conditions of telecommuting, which includes verification by the employee that the home office provides work space that is free of safety and fire hazards, together with an agreement which holds the state harmless against any and all claims, excluding workers' compensation claims, resulting from an employee working in the home office, and which must be signed and agreed to by the telecommuter and the supervisor.~~

Section 11. Paragraph (g) is added to subsection (1) of section 110.207, Florida Statutes, and paragraph (b) of subsection (2) of that section is amended to read:

#### 110.207. Classification plan

(1) The department shall establish and maintain a uniform classification plan applicable to all positions in the career service and shall be responsible for the overall coordination, review, and maintenance of the plan.

~~(g) Effective July 1, 1996, the department is directed to review the model classification plan established by the Department of Transportation under s. 334.0445, to determine whether the plan is suitable for statewide implementation. The department shall identify and resolve those issues that may affect statewide implementation by all agencies and ensure that the system is compatible with program based budgeting as set forth in s. 216.0166. To assist in the review, the Secretary of the Department of Management Services may appoint a task force, which shall include a representative of the Department of Transportation and state agency representatives with personnel, classification, and compensation experience. The department shall prepare a report of recommendations which shall be forwarded to the~~

Governor, the President of the Senate, the Speaker of the House of Representatives and appropriate legislative committees no later than January 15, 1997.

(2) The employing agency shall be responsible for the day-to-day application of classification rules promulgated by the department.

(b) The employing agency shall have the authority and responsibility to classify positions authorized by the Legislature or authorized pursuant to s. 216.262; to classify positions that are added in lieu of positions deleted pursuant to s. 216.262; and to reclassify established positions. Classification and reclassification actions taken by an employing agency shall be within the classes of positions established by the department, shall be funded within the limits of currently authorized appropriations, and shall be in accordance with the uniform procedures adopted by the department. ~~The employing agency shall notify the department prior to the effective date of any classification or reclassification action, as fixed by the agency and recorded on the position description.~~

Section 12. Paragraph (c) of subsection (2) of section 110.209, Florida Statutes, is amended to read:

110.209. Pay plan

(2)

(c) The department shall establish, by rule, guidelines with respect to, and shall delegate to the employing agencies the authority to administer, the following:

1. Shift differentials.
2. On-call fees.
3. Hazardous-duty pay.
4. Advanced appointment rates.
5. Salary increase and decrease corrections.
6. Lead worker pay.
7. Temporary special duties pay.
8. Trainer additive pay.
9. Workplace environment additive pay.
- 9.10. Competitive area differentials.

10.44. Coordinator pay.

The employing agency must use such pay additives as are appropriate within the guidelines established by the department and shall advise the department in writing of the plan for implementing such pay additives prior to the implementation date.

Section 13. Paragraph (a) of subsection (2) of section 110.21, Florida Statutes, is amended to read:

110.21. Shared employment

In order to promote part-time career employment opportunities at all levels in the career service, the department shall establish and maintain a plan for shared employment applicable to all classes in the career service and shall be responsible for the overall review, coordination, and administration of the shared-employment plan.

(2) In accordance with rules adopted by the department, each employing agency may establish or convert a percentage of its career service positions, not to exceed 10 percent, for the shared-employment program. However:

(a) No agency shall designate abolish any position which is occupied by an employee as a shared-employment position without the employee's consent of the incumbent, nor shall any agency designate a shared-employment position as full time without the consent of the incumbent or without a 90-day notice of such action in order to make the duties of such position available to be performed on a shared-employment basis.

Section 14. Section 110.2135, Florida Statutes, is amended to read:

110.2135. Preference in employment, reemployment, promotion, and retention Exemption from examination and hiring procedures; eligible disabled veterans; probationary employment

(1) Preference in employment, reemployment, promotion, and retention shall be given to an eligible veteran pursuant to ss. 295.07, 295.08, 295.085, 295.09, and 295.101 An honorably discharged veteran who has wartime service as specified in s. 1.01(14), who has a service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs or its predecessor or the Armed Services of the United States, and who is a legal resident of this state is exempted from entrance examination requirements and hiring procedures administered by a state agency as long as the veteran meets the minimum eligibility requirements and has the knowledge, skills, and abilities required for the particular position.

(2) A disabled veteran employed as the result of being placed at the top of the appropriate employment list under the provisions of s. 295.08 or s. 295.085 subsection (1) shall be appointed for a probationary period of 1 year. At the end of such period, if the work of the veteran has been satisfactorily performed, the veteran will acquire permanent employment

status and will be subject to the employment rules of the Department of Management Services and the veteran's employing agency.

Section 15. Subsection (3) of section 110.217, Florida Statutes, is amended to read:

110.217. Appointments and promotion

(3) Eligibility shall be based on possession of required minimum qualifications for the job class and any required entry-level knowledge, skills, and abilities, and any certification and licensure required for a particular position.

Section 16. Paragraph (c) of subsection (5) of section 110.219, Florida Statutes, is amended to read:

110.219. Attendance and leave; general policies

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(c) Holidays as provided in s. 110.117, ~~which shall be observed as paid holidays.~~

Section 17. Subsection (4) and paragraph (a) of subsection (5) of section 110.227, Florida Statutes, are amended to read:

110.227. Suspensions, dismissals, reductions in pay, demotions, layoffs, and transfers

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The Such notice may be delivered to the employee personally or may shall be sent by certified mail with return receipt requested. Such actions shall be appealable to the Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission.

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, the affected employee shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may shall be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission.

Section 18. Subsection (1) of section 110.403, Florida Statutes, is amended to read:

110.403. Powers and duties of the Department of Management Services

(1) In order to implement the purposes of this part, the Department of Management Services, after approval by the Administration Commission, shall adopt and amend rules providing for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance. The Department of Management Services shall establish and implement recruiting procedures which ensure that vacancies are advertised or otherwise publicized outside the hiring agency.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

~~(e) A program providing for periodic rotation of executive branch supervisory personnel into primary task or direct client contact positions within their unit of government. These assignments shall be of sufficient duration and variety so as to provide supervisors direct experience with actual performance of the duties of subordinates.~~

~~(e)(f)~~ A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

~~(f)(g)~~ Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the Department of Management Services to determine agency compliance with the provisions of this part and the rules of the Department of Management Services.

(g)(h) Other procedures relating to personnel administration to carry out the purposes of this part.

(h)(i) A program of affirmative and positive action that will ensure full utilization of women and minorities in Senior Management Service positions.

Section 19. Section 110.406, Florida Statutes, is amended to read:

110.406. Senior Management Service; data collection annual report

(1) The department secretary shall annually compile data, no later than March 1 of each year, furnish to the President of the Senate and the Speaker of the House of Representatives a report regarding the administration of the Senior Management Service.

(2) The data annual report required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. 110.403.

(b) Any recommendations and proposals for legislation which the secretary may have with respect to improving the operation and administration of the Senior Management Service.

(c) In addition, in each even numbered year, the data annual report shall also be furnished to the Executive Office of the Governor and shall include:

1. A pricing analysis based on a market survey of positions comparable to those included in the Senior Management Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Senior Management Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Senior Management Service, indicating the mean salary for each classification within the Senior Management Service and the deviation from such mean with respect to each agency's salary practice in each classification; a review of the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and an opinion as to whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Senior Management Service.

(3) To assist in the preparation of the data report required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. 110.405.

Section 20. Subsection (1) of section 110.407, Florida Statutes, is amended to read:

110.407. Performance audit of Senior Management Service

(1) The Auditor General shall ~~biennially~~ conduct a performance audit every 4 years of the Senior Management Service to determine whether the practices and procedures of the Department of Management Services comply with the provisions of this part and with sound principles of personnel management. The audit required by this section shall be completed and the report of such audit furnished to the President of the Senate and the Speaker of the House of Representatives no later than January 1 of the each odd numbered year following the year the audit was conducted.

Section 21. Subsections (1) and (3) of section 110.605, Florida Statutes, are amended to read:

110.605. Powers and duties; personnel rules, records, reports, and performance appraisal

(1) The department shall adopt and administer uniform personnel rules, records, and reports ~~and a uniform performance appraisal system~~ relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part. A uniform performance appraisal system shall apply only to employees and positions in the Selected Exempt Service covered by a collective bargaining agreement.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

(b) It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.

(c) The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.

(d) The department shall develop a program of affirmative and positive actions that will ensure full utilization of women and minorities in Selected Exempt Service positions.

~~(3) The department shall establish and implement recruiting procedures which ensure that vacancies are advertised or otherwise publicized outside the hiring agency.~~

Section 22. Section 110.606, Florida Statutes, is amended to read:

110.606. Selected Exempt Service; ~~data collection annual report~~

(1) The ~~department secretary~~ shall ~~annually compile data, no later than March 1 of each year, furnish to the President of the Senate and the Speaker of the House of Representatives a report~~ regarding the administration of the Selected Exempt Service.

(2) The data annual report required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of this part.

(b) Any recommendations and proposals for legislation which the secretary may have with respect to improving the operation and administration of the Selected Exempt Service.

(c) In addition, in each even-numbered year, the data annual report shall also be furnished to the ~~Executive Office of the Governor~~ and shall include:

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

(3) To assist in the preparation of the data report required by this section, the secretary may hire a consultant with expertise in the field of personnel management.

Section 23. Subsection (1) of section 110.607, Florida Statutes, is amended to read:

#### 110.607. Performance audit of Selected Exempt Service

(1) The Auditor General shall, ~~on a biennial basis~~, conduct a performance audit of the Selected Exempt Service every 4 years to determine whether the practices and procedures of the Department of Management Services comply with the provisions of this part and with sound principles of personnel management. The audit required by this section shall be completed and the report of such audit furnished to the President of the Senate and the Speaker of the House of Representatives no later than January 1 of the each odd numbered year following the year the audit was conducted.

Section 24. Paragraphs (d), (e), (f), and (g) of subsection (1) of section 216.262, Florida Statutes, are amended to read:

#### 216.262. Authorized positions

(1)

(d) An No individual employed by a state agency or by the judicial branch may not hold more than one employment during his or her normal working hours with the state, such working hours to be determined by the head of the state agency affected, unless approved by the Department of Management Services, or otherwise delegated to the agency head, or by the Chief Justice of the Supreme Court, respectively.

(e) An No individual employed by a state agency or by the judicial branch may not fill more than a total of one full-time equivalent established position, receive compensation simultaneously from any appropriation other than appropriations for salaries, or receive compensation simultaneously from more than one state agency unless approved by the Department of Management Services, or otherwise delegated to the agency head, or by the Chief Justice, respectively, during each fiscal year.

(f) No Perquisites may not be furnished by a state agency or by the judicial branch unless approved by the Department of Division of Personnel Management Services, or otherwise delegated to the agency head, or by the Chief Justice, respectively, during each fiscal year. Whenever a state agency or the judicial branch is to furnish perquisites, the Department of Management Services or the agency head to which the approval has been delegated or the Chief Justice, respectively, must approve the kind and monetary value of such perquisites before they may be furnished.

(g) If goods and services are to be sold to officers and employees of a state agency or of the judicial branch rather than being furnished as perquisites, the kind and selling price thereof shall be approved by the Department of Management Services, unless otherwise delegated to the agency head, or by the Chief Justice, respectively, during each fiscal year before such sales are made. The selling price may be deducted from any amounts due by the state to any person receiving such things. The amount of cash so deducted shall be faithfully accounted for. This paragraph does not apply to sales to officers or employees of items generally sold to the public and does not apply to meals which may be provided without charge to volunteers under a volunteer service program approved by the Department of Management Services.

Section 25. Section 110.1232, Florida Statutes, is amended to read:

110.1232. Health insurance coverage for persons retired under state- administered retirement systems before January 1, 1976, and for spouses

Notwithstanding any provisions of law to the contrary, or the provisions of s. 110.1231, the Department of Management Services shall provide health insurance coverage in the State Group Health Insurance Plan for persons who retired prior to January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. 110.123. The claims experience of this group shall be commingled with the claims experience of other members covered under s. 110.123.

Section 26. Section 110.1521, Florida Statutes, is amended to read:

110.1521. Short title

Sections 110.1521-110.1523 ~~110.1521-110.1524~~ may be cited as the "Family Support Personnel Policies Act."

Section 27. Section 110.1522, Florida Statutes, is amended to read:

110.1522. Model rule establishing family support personnel policies

The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. 110.1521-110.1523 ~~110.1521-110.1524~~, means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Section 28. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209. Board of Regents; powers and duties

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules delegating its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. 110.116, 110.123, ~~110.1231~~, 110.1232, 110.1234, 110.1235, and 110.1238 and in chapters 121, 122, and 238. The board shall adopt only those rules necessary to provide for a coordinated, efficient systemwide program and shall delegate to the universities all authority necessary for implementation of the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. Notwithstanding the provisions of s. 216.181(7), the salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 29. Subsection (3) of section 17.325, Florida Statutes, is amended to read:

17.325. Governmental efficiency hotline; duties of Comptroller

(3) Each telephone call on the hotline shall be received by the office of the Comptroller, and a record of each suggestion or information received shall be entered into a log kept by the Comptroller. A call on the hotline may be anonymous and shall be confidential. If a caller discloses that he or she is a state employee, the Comptroller, in addition to maintaining a record as required by this section, may refer any information or suggestion from the caller to an existing state awards program administered by the Department of Management Services Administration or by the State University System. The Comptroller shall conduct a preliminary evaluation of the efficacy of any suggestion or information received through the hotline and shall make a preliminary determination of the amount of revenues the state might save by implementing the suggestion or making use of such information.

Section 30. Subsection (1) of section 110.1097, Florida Statutes, is amended to read:

110.1097. Personnel system improvements for Department of Health and Rehabilitative Services; intent; review, report

(1) Pursuant to s. 110.109(1), the Department of Management Services Administration is directed to assist the Department of Health and Rehabilitative Services in conducting a review of the personnel system of the Department of Health and Rehabilitative Services to identify problem areas and make recommendations for the improvement of productivity and human resources management. The review shall include an analysis of all pertinent statutes, policies, and rules affecting the personnel system of the Department of Health and Rehabilitative Services and an analysis of the recommendations of recent studies of the Department of Health and Rehabilitative Services, including, but not limited to, those by the National Academy of Public Administration (1986), the Child Welfare League of America (1990), and the House Committee on Health and Rehabilitative Services (1990). This review of personnel issues affecting the Department of Health and Rehabilitative Services shall be comprehensive and shall include an assessment of and recommendations with respect to at least the following issues:

(a) Salaries and benefits.

(b) Staff turnover.

(c) Recruitment and retention, particularly with respect to child welfare and health care workers.

(d) Employee professionalism and competence.

(e) Personnel qualifications.

- (f) Preservice and inservice training.
- (g) Salary rate control.
- (h) The personnel classification system.
- (i) Career ladder opportunities.
- (j) The association between automated systems and worker productivity.
- (k) The need for greater local flexibility with respect to personnel actions.

Section 31. Subsection (5) of section 110.1099, Florida Statutes, is amended to read:

110.1099. Education and training opportunities for state employees

(5) The Department of Management Services Administration, in consultation with the agencies and Florida's public postsecondary educational institutions, shall adopt rules to implement and administer this section.

Section 32. Subsection (2) of section 110.12315, Florida Statutes, is amended to read:

110.12315. Prescription drug program

(2)(a) Notwithstanding provisions of statute or agency administrative rules that may have been enacted or adopted prior to April 8, 1992, the Department of Management Services Administration, in making provision for reimbursement for prescription medicines dispensed to members of the State Group Health Insurance Plan and their dependents, shall allow prescriptions written by health care providers under the plan to be filled by any licensed pharmacy pursuant to contractual claims-processing provisions. Retail pharmacies participating in this program shall be reimbursed at a uniform rate and subject to uniform conditions, according to the terms and conditions of the plan established by the Department of Management Services —Administration and relevant provisions of the annual General Appropriations Act and implementing legislation. Nothing in this section shall be construed as prohibiting a mail order prescription drug program distinct from the service provided by retail pharmacies.

(b) The reimbursement schedule developed by the Department of Management Services Administration for a prescription pharmaceutical shall be based on the cost of the generic equivalent drug if a generic equivalent exists, unless the physician prescribing the pharmaceutical clearly states on the prescription that the brand name drug is medically necessary or that the drug product is included on the formulary of drug products that may not be interchanged as provided in chapter 465. In cases in which the physician indicates that a brand name drug is medically necessary, reimbursement shall be based on the cost of the brand name drug as specified in the reimbursement plan adopted by the Department of Management Services Administration.

(c) Not later than October 1, 1992, the Department of Management Services Administration shall implement a prescription utilization review program. All pharmacies dispensing medicines to members of the State Group Health Insurance Plan and their dependents shall be required to make records available for this review as a condition of participation in the State Group Health Insurance Plan.

(d) The Department of Management Services Administration shall assure the prompt implementation of this section and may reject all existing contract bids, rebid a pharmaceutical contract, or amend any existing pharmaceutical contract, and exercise any option for terminating any contract that conflicts with these provisions. The Department of Management Services Administration shall incorporate additional cost savings and adjustments required to balance within appropriations provided, including, but not limited to, a trial or starter dose program and dispensing of long-term maintenance medication in lieu of acute therapy medication. This section does not authorize a reduction in the existing benefit configuration or allow premiums, deductions, or copayments to be raised above the levels specified in the 1992-1993 General Appropriations Act.

Section 33. Subsection (2) of section 112.24, Florida Statutes, is amended to read:

**112.24. Intergovernmental transfer and interchange of public employees**

To encourage economical and effective utilization of public employees in this state, the temporary assignment of employees among agencies of government, both state and local, and including school districts and public institutions of higher education is authorized under terms and conditions set forth in this section. State agencies, municipalities, and political subdivisions are authorized to enter into employee interchange agreements with the Federal Government, with another state, with another municipality or political subdivision including a school district, or with a public institution of higher education. State agencies are also authorized to enter into employee interchange agreements with private institutions of higher education and other nonprofit organizations under the terms and conditions provided in this section. In addition, the Governor or the Governor and Cabinet may enter into employee interchange agreements with the Federal Government, with another state, with a municipality or political subdivision including a school district, or with a public institution of higher learning to fill, subject to the requirements of chapter 20, appointive offices which are within the executive branch of government and which are filled by appointment by the Governor or the Governor and Cabinet. Under no circumstances shall employee interchange agreements be utilized for the purpose of assigning individuals to participate in political campaigns. Duties and responsibilities of interchange employees shall be limited to the mission and goals of the agencies of government.

(2) The period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years. Upon agreement of the sending party and the receiving party and under the same or modified terms, an assignment or detail of 2 years may be extended by 3 months. However, agreements relating to faculty members of the State University System may be extended biennially upon approval by the Department of

Management Services Administration. If the appointing agency is the Governor or the Governor and Cabinet, the period of an individual's assignment or detail under an employee interchange program shall not exceed 2 years plus an extension of 3 months or the number of years left in the term of office of the Governor, whichever is less.

Section 34. Paragraph (a) of subsection (2) of section 402.50, Florida Statutes, is amended to read:

402.50. Administrative infrastructure; legislative intent; establishment of standards

(1) LEGISLATIVE INTENT.--The Legislature finds evidence of deficiencies in the administrative infrastructure of the Department of Health and Rehabilitative Services, hereafter referred to as the "department," that may negatively affect the timeliness and quality of delivery of services. Particularly, the Legislature finds that inadequate client and management information systems have impeded integrated service delivery, that program evaluation activities have been insufficient, that workloads of administrative personnel are excessive, and that clients and service providers have been adversely affected by these administrative deficiencies. It is the intent of the Legislature that the administrative infrastructure of the department be established at levels necessary to support efficient and effective delivery of services. Further, it is the intent of the Legislature that contracts of the department with service providers include established levels of funding for administrative infrastructure to support efficient and effective delivery of contracted services.

(2) ADMINISTRATIVE INFRASTRUCTURE STANDARDS.—

(a) The department, in conjunction with the Department of Management Services Administration and the Governor's Office of Planning and Budgeting, shall develop standards for administrative infrastructure funding and staffing to support the department and contract service providers in the execution of their duties and responsibilities. A report of recommended standards shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and House, and the chairpersons of appropriate House and Senate committees by October 1, 1992.

Section 35. Section 760.04, Florida Statutes, is amended to read:

760.04. Commission on Human Relations, assigned to Department of Management Services Administration

The commission created by s. 760.03 is assigned to the Department of Management Services Administration. The commission, in the performance of its duties pursuant to the Florida Civil Rights Act of 1992, shall not be subject to control, supervision, or direction by the Department of Management Services Administration.

Section 36. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207. Commission; powers and duties

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section 110.124, relating to termination ~~retirement~~ or transfer of State Career Service System employees aged 65 or older.

(b) Section 112.044(4), relating to age discrimination.

(c) Section 295.11, relating to reasons for not employing a preferred veteran applicant.

<< Repealed: FL ST §§ 110.1231, 110.1524 >>

Section 37. Section 110.1231, Florida Statutes, as amended by chapter 94-249, Laws of Florida, and section 110.1524, Florida Statutes, are repealed.

Section 38. Subsection (3) of section 110.1128, Florida Statutes, is amended to read:

110.1128. Selective service registration

(3) ~~Each agency The Department of Management Services shall adopt rules necessary to carry out the administration of the requirements of this section. Such rules shall provide for a review, when requested by the applicant or employee, of any denial of employment or promotion for reasons of noncompliance with selective service registration requirements.~~

Section 39. Subsections (1) and (2) of section 110.201, Florida Statutes, are amended to read:

110.201. Personnel rules, records, and reports

(1)(a) ~~By July 1, 1998, the department, in consultation with agencies that must comply with these rules, shall develop uniform personnel rules, guidelines, records, and reports relating to employees and positions, in the career service. In addition, the department, when appropriate, shall develop model personnel rules which must be reviewed by the Administration Commission and filed with the Department of State. State agencies must comply with the uniform rules, except as provided in this section, by July 1, 1999. The department may adopt rules that provide alternative requirements. Upon filing with the Department of State, the appropriate uniform rules will constitute the personnel rules for each agency subject to this act unless the Administration Commission grants an exception to a specific rule to an agency upon the agency's request or unless the agency must comply with a statutory provision that conflicts with the uniform rules. If an agency must comply with a statutory provision that conflicts with the uniform rules, the agency must notify the Administration Commission, the Administrative Procedures Committee, and the appropriate standing committees of the Legislature by July 1, 1999, and advise the standing committees whether the agency recommends revision of the statute to conform it to the uniform rules.~~

Agencies are encouraged to propose methods of conforming statutory provisions to the uniform personnel rules. may be used by employing agencies. In adopting the such rules, the department must consult with the agencies.

(b) An agency may request an exception to the uniform personnel rules by filing a petition with the Administration Commission. The Administration Commission shall approve an exception when the exception is necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exception must be published in the Florida Administrative Weekly.

(c) Agency rules that provide exceptions to the uniform personnel rules may not be filed with the Department of State unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the uniform rules or that must comply with statutory requirements that conflict with the uniform rules must have a separate chapter published in the Florida Administrative Code which clearly delineates the provisions of the agency's rules which provide exceptions or are based upon a conflicting statutory requirement. Each alternative chosen from those authorized by the uniform rules must be specified. Each chapter must be organized in the same manner as the uniform rules.

(d)(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, appointment action, or any additional transactions as the department may determine deem appropriate.

(e)(b) It is shall be the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.

(2) Each employing agency shall operate within the uniform personnel rules promulgated by the department under pursuant to the provisions of this chapter. Any rule adopted by an employing agency that is an exception to the uniform personnel rules or that is based upon a statutory provision that an agency must follow but which conflicts with the uniform personnel rules may Each employing agency shall adopt rules as necessary to implement the provisions of this part and the provisions of the rules of the department, but such rules shall not prescribe any personnel policies inconsistent with the provisions of this chapter or the rules of the department. Neither the rules of the department nor the rules of an employing agency may shall include any benefits for career service employees which are in excess of, or in addition to, those authorized by this chapter.

Section 40. Section 110.1221, Florida Statutes, is created to read:

110.1221. Sexual harassment policy

It is the policy of the state that sexual harassment is a form of discrimination. The department shall adopt uniform sexual harassment rules applicable to all executive agencies.

The rules must define the term "sexual harassment" in a manner consistent with the federal definition.

Section 41. Subsections (1), (5), and (6) of section 110.217, Florida

Statutes, are amended to read:

110.217. Appointments and promotion

(1)(a) By July 1, 1998, the department, in consultation with agencies that must comply with these rules, shall develop uniform model appointment and promotion rules regarding appointment, promotion, demotion, reassignment, separation, and status which must may be used by employing agencies by July 1, 1999. Such rules must be approved by the Administration Commission before their adoption by the department.

(b) Employing agencies may seek exceptions to these uniform electing to adopt appointment and promotion rules by filing a petition with the Administration Commission. The Administration Commission shall approve an exception when the exception is necessary to conform to any requirement imposed as a condition precedent to receipt of federal funds or to permit persons in this state to receive tax benefits under federal law, or as required for the most efficient operation of the agency as determined by the Administration Commission. The reasons for the exception must be published in the Florida Administrative Weekly.

(c) Agency rules that provide exceptions to the uniform rules may not be filed with the Department of State unless the Administration Commission has approved the exceptions. Each agency that adopts rules that provide exceptions to the uniform rules or that must comply with statutory requirements that conflict with the uniform rules must have a separate chapter published in the Florida Administrative Code that delineates clearly the provisions of the agency's rules which provide exceptions or are based upon a conflicting statutory requirement. Each alternative chosen from those authorized by the uniform rules must be specified. Each chapter must be organized in the same manner as the uniform rules. that are inconsistent with the model rules must consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.

(5) The department shall have the responsibility for the adoption of rules in cooperation and consultation with the agencies regarding demotion, reassignment, separation, promotion, original appointments, and status.

(5)(6) The department shall adopt any rules necessary to implement the provisions of this section. The; however, such rules must shall be approved by a majority vote of the Administration Commission prior to their adoption by the department.

Section 42. Subsection (2) of section 110.503, Florida Statutes, is amended to read:

110.503. Responsibilities of departments and agencies

Each department or agency utilizing the services of volunteers shall:

(2) Comply with the uniform Develop written rules adopted by the Department of Management Services governing the recruitment, screening, training, responsibility, use utilization, and supervision of volunteers.

Section 43. Paragraph (a) of subsection (7) of section 112.061, Florida Statutes, is amended to read:

112.061. Per diem and travel expenses of public officers, employees, and authorized persons

(7) TRANSPORTATION.—

(a) All travel must be by a usually traveled route. In case a person travels by an indirect route for his or her own convenience, any extra costs shall be borne by the traveler; and reimbursement for expenses shall be based only on such charges as would have been incurred by a usually traveled route. The agency head shall designate the most economical method of travel for each trip, keeping in mind the following conditions:

1. The nature of the business.
2. The most efficient and economical means of travel (considering time of the traveler, impact on the productivity of the traveler, cost of transportation, and per diem or subsistence required). When it is more efficient and economical to either the traveler or the agency head, jet service offered by any airline, whether on state contract or not, may be used when the cost is within an approved threshold determined by the agency head.
3. The number of persons making the trip and the amount of equipment or material to be transported.

Section 44. Paragraph (c) of subsection (2) of section 255.25, Florida Statutes, is amended to read:

255.25. Approval required prior to construction or lease of buildings

(2)

(c) The Department of Management Services shall adopt as a rule uniform leasing procedures for use by each state agency other than the Department of Transportation. Each state agency shall develop procedures and adopt rules to ensure that the leasing practices of that agency are in substantial compliance with the uniform leasing rules adopted under pursuant to this section and ss. 255.249, 255.2502, and 255.2503.

Section 45. Subsections (2), (3), and (10) of section 287.055, Florida Statutes, are amended to read:

287.055. Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties

(2) DEFINITIONS.--For purposes of this section:

(a) "Professional services" means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.

(b) "Agency" means the state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under pursuant to s. 380.06 or ss. 163.3220-163.3243.

(c) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.

(d) "Compensation" means the total amount paid by the agency for professional services.

(e) "Agency official" means any elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the state, a state agency, municipality, or political subdivision, a school district or a school board.

(f) "Project" means that fixed capital outlay study or planning activity described in the public notice of the state or a state agency under pursuant to paragraph (3)(a). ~~An agency shall prescribe by administrative rule procedures for the determination of A project under its jurisdiction. Such procedures may include:~~

1. ~~Determination of a project that constitutes~~ A grouping of minor construction, rehabilitation, or renovation activities.

2. ~~Determination of a project that constitutes~~ A grouping of substantially similar construction, rehabilitation, or renovation activities.

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed \$500,000, for study activity when the fee for such professional service does not exceed \$25,000, or for work of a specified nature as outlined in the contract required by the

agency, with no time limitation except that the contract must shall provide a termination clause.

(h) A "design-build firm" means a partnership, corporation, or other legal entity that which:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

(i) A "design-build contract" means a single contract with a design-build firm for the design and construction of a public construction project.

(j) A "design criteria package" means concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information ~~so as~~ to permit design-build firms to prepare a bid or a response to an agency's request for proposal, or to permit an agency to enter into a negotiated design-build contract. The design criteria package must shall specify ~~such~~ performance-based criteria for the public construction project, including, ~~but not limited to~~, the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements, ~~as may be applicable to the project~~.

(k) A "design criteria professional" means a firm who holds a current certificate of registration under chapter 481 to practice architecture or landscape architecture or a firm who holds a current certificate as a registered engineer under chapter 471 to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.

### (3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.—

(a) Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must are required to be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies ~~so~~ certified by the agency head. The public notice must shall include a general description of the project and must shall indicate how interested consultants may apply for consideration.

(b) Each agency shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the agency to submit annually statements of qualifications and performance data.

(c) Any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.

(d) Each agency shall ~~evaluate adopt administrative procedures for the evaluation~~ of professional services, including, ~~but not limited to~~, capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act of 1985, and ~~such other factors as may be~~ determined by the agency to be applicable to its particular requirements. When securing professional services, an agency must endeavor to meet the minority business enterprise procurement goals under set forth in s. 287.0945.

(e) The public must shall not be excluded from the proceedings under this section.

(10) APPLICABILITY TO DESIGN-BUILD CONTRACTS.—

(a) Except as provided in this subsection, this section is not applicable to the procurement of design-build contracts by any agency, and the any such agency must shall award design-build contracts in accordance with the procurement laws, rules, and ordinances applicable to the agency.

(b) The design criteria package must shall be prepared and sealed by a design criteria professional employed by or retained by the agency. If the agency elects to enter into a professional services contract for the preparation of the design criteria package, then the design criteria professional must shall be selected and contracted with under in accordance with the requirements of subsections (4) and (5). A design criteria professional who has been selected to prepare the design criteria package is shall not be eligible to render services under a design-build contract executed pursuant to the design criteria package.

(c) Except as otherwise provided in s. 337.11(7) or s. 240.209(3), the Department of Management Services shall adopt rules for the award of design- build contracts to be followed by state agencies. Each other agency must adopt rules or ordinances for the award of design-build contracts. For municipalities, political subdivisions, school districts, and school boards, such procedures must include as a minimum the following:

1. The preparation of a design criteria package for the design and construction of the public construction project.

2. The qualification and selection of no fewer than three design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.

3. The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical, and design aspects of the public construction project, weighted for the project.

4. The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.

5. For consultation with the employed or retained design criteria professional concerning the evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the agency of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.

6. In the case of public emergencies, for the agency head to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

#### Section 46.

(1) Each agency shall review and revise its rules as often as necessary to ensure that its rules are correct and comply with statutory requirements. Additionally, each agency shall perform a formal review of its rules every 2 years. In the annual review, each agency must:

(a) Identify and correct deficiencies in its rules;

(b) Clarify and simplify its rules;

(c) Delete obsolete or unnecessary rules;

(d) Delete rules that are redundant of statutes;

(e) Seek to improve efficiency, reduce paperwork, or decrease costs to government and the private sector; and

(f) Contact agencies that have concurrent or overlapping jurisdiction to determine whether their rules can be coordinated to promote efficiency, reduce paperwork, or decrease costs to government and the private sector.

(2) Beginning October 1, 1997, and by October 1 of every other year thereafter, the head of each agency shall file a report with the President of the Senate and the Speaker of the House of Representatives, with a copy to each appropriate standing committee of the Legislature, which certifies that the agency has complied with the requirements of this

subsection. The report must specify any changes made to its rules as a result of the review and, when appropriate, recommend statutory changes that will promote efficiency, reduce paperwork, or decrease costs to government and the private sector.

Section 47. Subsection (1) of section 110.501, Florida Statutes, is amended to read:

#### 110.501. Definitions

As used in this act:

(1) "Volunteer" means any person who, of his or her own free will, provides goods or services to any state department or agency, or nonprofit organization, with no monetary or material compensation. A person registered and serving in Older American Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. No. 93-113), shall also be defined as a volunteer and shall incur no civil liability as provided by s. 768.1355. A volunteer shall be eligible for payment of volunteer benefits as specified in Pub. L. No. 93-113, this section, and s. 430.204.

Section 48. Subsection (3) of section 110.502, Florida Statutes, is amended to read:

#### 110.502. Scope of act; status of volunteers

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. 110.504, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 49. Subsections (6) and (7) are added to section 110.504, Florida Statutes, to read:

#### 110.504. Volunteer benefits

(6) Incidental recognition benefits or incidental nonmonetary awards may be furnished to volunteers serving in state departments to award, recognize, or encourage volunteers for their service.

(7) Volunteers, including volunteers receiving a stipend as provided by the Domestic Service Volunteer Act of 1973, as amended (Pub. L. No. 93-113), shall be covered by s. 768.1355, the Florida Volunteer Protection Act.

Section 50. Section 768.1355, Florida Statutes, is amended to read:

#### 768.1355. Florida Volunteer Protection Act

(1) Any person who volunteers to perform any service for any nonprofit organization, including an officer or director of such organization, without compensation, except reimbursement for actual expenses, shall be considered an agent of such nonprofit organization when acting within the scope of any official duties performed under such volunteer services. Such person shall incur no civil liability for any act or omission by such person which results in personal injury or property damage if:

(a) Such person was acting in good faith within the scope of any official duties performed under such volunteer service and such person was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and

(b) The injury or damage was not caused by any wanton or willful misconduct on the part of such person in the performance of such duties.

1. For purposes of this act, the term "nonprofit organization" means any organization which is exempt from taxation pursuant to 26 U.S.C. s. 501, or any federal, state, or local governmental entity.

2. For purposes of this act, the term "compensation" does not include a stipend as provided by the Domestic Service Volunteer Act of 1973, as amended (Pub. L. No. 93-113), or other financial assistance, valued at less than two- thirds of the federal hourly minimum wage standard, paid to a person who would otherwise be financially unable to provide the volunteer service.

(2) Except as otherwise provided by law, if a volunteer is determined to be not liable pursuant to subsection (1), the nonprofit organization for which the volunteer was performing services when the damages were caused shall be liable for such damages to the same extent as the nonprofit organization would have been liable if the liability limitation pursuant to subsection (1) had not been provided.

(3) Members of elected or appointed boards, councils, and commissions of the state, counties, municipalities, authorities, and special districts shall incur no civil liability and shall have immunity from suit as provided in s. 768.28 for acts or omissions by members relating to members' conduct of their official duties. It is the intent of the Legislature to encourage our best and brightest people to serve on elected and appointed boards, councils, and commissions.

(4)~~(3)~~ This section may be cited as the "Florida Volunteer Protection Act."

Section 51. Paragraph (l) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205. Career service; exemptions

(1) CAREER POSITIONS.--The career service to which this part applies includes all positions not specifically exempted by this part, any other provisions of the Florida Statutes to the contrary notwithstanding.

(2) EXEMPT POSITIONS.--The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health and Rehabilitative Services and the Department of Corrections that are assigned primary duties of serving as the superintendent of an institution; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); and positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health and Rehabilitative Services that are assigned the duty of an Environmental Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 52. This act shall take effect October 1, 1996.

Became a law without the Governor's approval June 2, 1996.

Filed in Office Secretary of State May 31, 1996.

[FN1] Tentative assignment as 110.08.

[FN2] Tentative agreement as 120.74.