

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

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BILL: SB 1312

INTRODUCER: Senator Wise

SUBJECT: Florida State Employees' Charitable Campaign

DATE: March 11, 2010      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Wilson	GO	<b>Favorable</b>
2.			WPSC	
3.				
4.				
5.				
6.				

**I. Summary:**

The bill amends the Florida State Employees' Charitable Campaign statute to provides that charities participating in the campaign will receive a proportion of undesignated funds equal to the percentage of designated funds they receive.

This bill amends section 110.181 of the Florida Statutes.

**II. Present Situation:**

Section 110.181, F.S., requires the Department of Management Services (DMS) to establish an annual Florida State Employees' Charitable Campaign, the only authorized charitable fundraising drive directed toward state employees within work areas during work hours, and for which the state will provide payroll deduction.

Nonprofit charitable organizations with the following missions are eligible to participate in the campaign:

- Public health and welfare
- Education
- Environmental restoration and conservation
- Civil and human rights
- Relief of human suffering and poverty

The following factors make an organization ineligible to participate in the campaign:

- Organizations whose fundraising and administrative expenses exceed 25 percent

- Organizations whose activities are primarily political, religious, professional, or fraternal
- Organizations with prohibited discriminatory practices
- Unregistered charitable organizations
- Organizations without 26 U.S.C. 501(c)(3) tax qualified status

DMS and the Department of Financial Services (DFS) provide administrative support for the campaign. DMS competitively selects a fiscal agent for the processing of contributions to the designated charities and the DFS, as paymaster, provides the deduction codes through the state payroll system. The current fiscal agent is the United Way of Florida, Incorporated. The United Way then uses regional United Way entities to serve as sub-agents in the 27 fiscal agent areas of the state.

The approved fiscal agent is permitted reasonable costs for the conduct of the campaign and must reimburse DMS for the costs of coordinating the campaign, not to exceed 1 percent of gross pledges. All financial records associated with the fiscal intermediary duties and operations are open for inspection to the public upon reasonable notice.

During the annual campaign, employees receive booklets listing the participating charities in their fiscal agent area. Employees may donate funds to particular charities, or may donate funds to the campaign without designating a specific charity. These undesignated funds are added to those funds raised in agency fund-raising events.

Prior to 2006, decisions regarding the allocation of undesignated funds were made by local steering committees, which are comprised of state employees located in each fiscal agent area. Any charity approved to participate in a particular fiscal agent area, whether a United Way charity, national charity, international charity, or independent charity, could petition the local steering committee to receive undesignated funds. The local steering committee had the sole discretion to allocate the undesignated funds.

In 2006, the Legislature added provisions to s. 110.181(2), F.S., mandating that participating charitable organizations that provide “direct services” in a local fiscal agent's area would receive the same percentage of undesignated funds as the percentage of designated funds they receive.<sup>1</sup> The undesignated funds remaining following this allocation would be distributed by the local steering committee.

In effect, this change led to a two-part allocation of undesignated funds. First, charities apply to DMS for a determination of whether the charity supplies “direct services.” United Way-affiliated charities are deemed to be providing direct services; for all other charities, a determination must be made, though “direct services” is not defined. Charities that are determined to be providing direct services are given the proportional allocation. The remaining unallocated funds are then distributed by the local steering committees.

The first year this process was put in effect, some charities challenged the determination that they were not providing direct services, forcing DMS into litigation. According to DMS, in Fiscal Year 2007-08, the administrative costs to DMS to run the campaign amounted to

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<sup>1</sup> Chapter 2006-221, L.O.F.

\$106,457, of which \$45,101 was DMS general counsel hours. In FY 2008-09, the administrative costs to DMS were \$153,830. DMS is reimbursed less than it costs to run the campaign. Since 1993, DMS has been appropriated \$17,000 to run the campaign,<sup>2</sup> and may be reimbursed by the fiscal agent a maximum of 1% of the total campaign proceeds,<sup>3</sup> which were roughly \$4.9 million in 2007, and \$4.4 million in 2008.

### III. Effect of Proposed Changes:

The bill amends s.110.181(2)(e), F.S., to eliminate the “direct services” requirement, and provides that participating charities will receive a proportion of undesignated funds equal to the percentage of designated funds they receive. The bill also deletes the requirement in s. 110.181(2)(d) that local steering committees direct the distribution of undesignated funds, since the change in paragraph (e) makes this process unnecessary, as all undesignated funds will be distributed pro rata.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

Costs incurred by nonprofit organizations which litigate DMS determinations of “direct services” will be avoided.

#### C. Government Sector Impact:

DMS should incur lower administrative costs to run the campaign.

### VI. Technical Deficiencies:

None.

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<sup>2</sup> Line item 2802 of the Conference Report on SB 2600, in 2009.

<sup>3</sup> Section 110.181(2)(b), F.S.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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