

By Senator Bankhead

8-748B-98

1 A bill to be entitled
 2 An act relating to long-term care; amending s.
 3 110.161, F.S.; authorizing the Division of
 4 State Group Insurance to establish a pretax
 5 benefit program for long-term-care expenses;
 6 creating s. 430.801, F.S.; creating the Florida
 7 Employee Long-Term-Care Plan Act; directing the
 8 Department of Elderly Affairs to develop,
 9 implement, and administer the long-term care
 10 plan for public employees; providing for a
 11 Florida Employee Long-Term-Care Plan Advisory
 12 Council and a Florida Employee Long-Term-Care
 13 Board of Trustees; providing an effective date.

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

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 17 Section 1. Subsection (6) of section 110.161, Florida
 18 Statutes, is amended to read:

19 110.161 State employees; pretax benefits program.--

20 (6) The Division of State Group Insurance is
 21 authorized to establish a pretax benefits program for all
 22 employees whereby employees would receive benefits which are
 23 not includable in gross income under the Internal Revenue Code
 24 of 1986. The pretax benefits program shall be implemented in
 25 phases. Phase one shall allow employee contributions to
 26 premiums for the state health program and state life insurance
 27 to be paid on a pretax basis unless an employee elects not to
 28 participate. Phase two shall allow employees to voluntarily
 29 establish expense reimbursement plans from their salaries on a
 30 pretax basis to pay for qualified medical care,
 31 long-term-care, and dependent care expenses, including

1 premiums paid by employees for qualified supplemental
2 insurance. Phase two may also provide for the payment of such
3 premiums through a pretax payroll procedure as used in phase
4 one. The Administration Commission and the Division of State
5 Group Insurance are directed to take all actions necessary to
6 preserve the tax-exempt status of the program.

7 Section 2. Section 430.801, Florida Statutes, is
8 created to read:

9 430.801 Florida Employee Long-Term-Care Act.--

10 (1) The Legislature finds that state expenditures for
11 long-term-care services continue to increase at a rapid rate
12 and that the state faces increasing pressure in its efforts to
13 meet the long-term-care needs of the public. It is the intent
14 of the Legislature that:

15 (a) The Department of Elderly Affairs implement a
16 self-funded voluntary long-term-care plan for public employees
17 and their families.

18 (b) The department shall design the plan to provide
19 long-term-care coverage for public employees and family
20 members of public employees. Eligible plan participants must
21 include active and retired officers and employees of all
22 branches and agencies of state and local government and their
23 spouses, children, parents, and parents-in-law; active and
24 retired federal employees residing in the state and their
25 spouses, children, parents, and parents-in-law residing in the
26 state; and the surviving spouses, children, parents, and
27 parents-in-law of such deceased officers and employees,
28 whether active or retired at the time of death. The department
29 may include additional participants only when doing so
30 preserves the actuarial soundness of the plan.

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1 (c) The Florida Employee Long-Term-Care Plan is not
2 subject to chapter 624, chapter 625, chapter 626, or chapter
3 627 or the rules of the Department of Insurance.

4 (2) As used in this section, the term:

5 (a) "Department" means the Department of Elderly
6 Affairs.

7 (b) "Self-funded" means that plan benefits and costs
8 are funded from contributions made by or on behalf of
9 participants and trust fund investment revenue.

10 (c) "Plan" means the Florida Employee Long-Term-Care
11 Plan.

12 (3) The department shall, after consultation with
13 public employees and representatives from unions and
14 associations representing state, university, local government,
15 and other public employees, establish and supervise the
16 implementation and administration of a self-funded,
17 long-term-care plan entitled "Florida Employee Long-Term-Care
18 Plan."

19 (a) The department shall, after consultation with the
20 Division of State Group Insurance, the Department of
21 Management Services, and the Department of Insurance, contract
22 for actuarial, professional-administrator, and other services
23 for the Florida Employee Long-Term-Care Plan.

24 (b) When contracting for a professional administrator,
25 the department shall consider, at a minimum, the entity's
26 previous experience and expertise in administering self-funded
27 group long-term-care insurance programs; the entity's
28 demonstrated ability to perform its contractual obligations in
29 the state and in other jurisdictions; the entity's projected
30 administrative costs; the entity's capability to adequately
31 provide service coverage, including a sufficient number of

1 experienced and qualified personnel in the areas of marketing,
2 claims processing, recordskeeping, and underwriting; the
3 entity's accessibility to public employees and other qualified
4 participants; and the entity's financial soundness and
5 solvency.

6 (c) Any contract with a professional administrator
7 entered into by the department must require that the state be
8 held harmless and indemnified for any financial loss caused by
9 the failure of the professional administrator to comply with
10 the terms of the contract.

11 (d) The department shall explore innovations in
12 long-term-care financing and service delivery with regard to
13 possible future inclusion in the plan. Such innovative
14 financing and service-delivery mechanisms may include managed
15 long-term care and plans that set aside assets with regard to
16 eligibility for Medicaid-funded long-term-care services in the
17 same proportion that private long-term care insurance benefits
18 are used to pay for long-term care.

19 (4) The department shall appoint a Florida Employee
20 Long-Term-Care Plan Advisory Council to assist in designing
21 and marketing the plan. The advisory council shall be composed
22 of representatives of public employers and representatives of
23 other eligible participants, not to exceed 12 members. Council
24 members may not be reimbursed for travel and other expenses
25 related to their duties from department funds, but they may be
26 reimbursed from funds of the plan.

27 (5) The department may contract with the State Board
28 of Administration for the investment of funds in the Florida
29 Employee Long-Term-Care Plan reserve fund. Plan contributions
30 collected and not required to pay the costs of the plan are
31 held on behalf of and for the benefit of the enrollees, and

1 are not state funds. The moneys shall be held by the State
2 Board of Administration on behalf of enrollees and invested in
3 accordance with a trust agreement approved by the department
4 and the State Board of Administration and in accordance with
5 the provisions of ss. 215.44-215.53. Moneys in the trust fund
6 may be used only for the purposes specified in the trust
7 agreement.

8 (6)(a) The department shall establish the Florida
9 Employee Long-Term-Care Plan Trust.

10 (b) A Florida Employee Long-Term-Care Plan Board of
11 Trustees is created composed of seven members. One trustee
12 each shall be appointed by the Governor; the Speaker of the
13 House of Representatives; the President of the Senate; the
14 Treasurer; the Attorney General; the Secretary of Elderly
15 Affairs; and the Florida Employee Long-Term-Care Plan Advisory
16 Council.

17 (7) Trustees shall be appointed as follows:

18 (a) The trustee appointed by the secretary must be a
19 plan participant.

20 (b) The Florida Employee Long-Term-Care Plan Advisory
21 Council shall appoint one of its members as a trustee.

22 (c) The Treasurer shall appoint an actuary as trustee.

23 (d) The Attorney General shall appoint an attorney as
24 trustee.

25 (e) The Governor, the Speaker of the House of
26 Representatives, and the President of the Senate shall choose
27 their appointees from a broad cross-section of Florida's
28 residents.

29 (8) The trust's board of trustees' duties,
30 responsibilities, and powers shall be as specified in the
31 Florida Employee Long-Term-Care Plan Trust; however, at a

1 minimum, the trustees shall submit an annual report prepared
2 with the assistance of an actuarial consultant, to the
3 Governor, the Speaker of the House of Representatives, the
4 President of the Senate, and the Secretary of Elderly Affairs.

5 (9) Each Trustee shall be appointed for a 2-year term
6 and may be reappointed for one additional 2-year term.

7 (10) Members of the board of trustees may not receive
8 a salary, but may be reimbursed for travel, per diem, and
9 administrative expenses related to their duties. Trustee
10 expenses and costs for the annual report and other
11 administrative expenses must be borne by the plan. State funds
12 may not be contributed toward costs associated with board
13 members or their activities conducted on behalf of and for the
14 benefit of trust beneficiaries.

15 Section 3. This act shall take effect upon becoming a
16 law.

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19 SENATE SUMMARY

20 Directs the Department of Elderly Affairs to develop,
21 implement, and administer the "Florida Employee
22 Long-Term-Care Plan", a self-funded voluntary
23 long-term-care plan for all public employees. Provides
24 for the plan to be a pretax benefit program.
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