

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Representative(s) King offered the following:

12

13 **Amendment**

14 On page 11, line 3 through page 25, line 15,
15 remove from the bill: all of said lines

16

17 and insert in lieu thereof:

18 Section 6. Subsection (2), paragraphs (a), (e), and
19 (h) of subsection (3), paragraphs (a) and (e) of subsection
20 (4), and subsections (5) and (9) of section 110.123, Florida
21 Statutes, are amended, and subsection (12) is added to that
22 section, to read:

23 110.123 State group insurance program.--

24 (2) DEFINITIONS.--As used in this section, the term:

25 (a) "Department" means the Department of Management
26 Services.

27 (b) "Division" means the Division of State Group
28 Insurance in the department.

29 (c) "Enrollee" means all state officers and employees,
30 retired state officers and employees, and surviving spouses of
31 deceased state officers and employees, and terminated

1 employees or individuals with continuation coverage who are
2 enrolled in an insurance plan offered by the state group
3 insurance program.

4 (d) "Full-time state employees" includes all full-time
5 employees of all branches or agencies of state government
6 holding salaried positions and paid by state warrant or from
7 agency funds, and employees paid from regular salary
8 appropriations for 8 months' employment, including university
9 personnel on academic contracts, but in no case shall "state
10 employee" or "salaried position" include persons paid from
11 other-personal-services (OPS) funds.

12 (e) "Health maintenance organization" or "HMO" means
13 an entity certified under part I of chapter 641.

14 (f) "Health plan member" means any person
15 participating in the state group health insurance plan or in a
16 health maintenance organization plan under the state group
17 insurance program, including enrollees and covered dependents
18 thereof.

19 (g)(f) "Part-time state employee" means any employee
20 of any branch or agency of state government paid by state
21 warrant from salary appropriations or from agency funds, and
22 who is employed for less than the normal full-time workweek
23 established by the department or, if on academic contract or
24 seasonal or other type of employment which is less than
25 year-round, is employed for less than 8 months during any
26 12-month period, but in no case shall "part-time" employee
27 include a person paid from other-personal-services (OPS)
28 funds.

29 (h)(g) "Retired state officer or employee" or
30 "retiree" means any state officer or state employee who
31 retires under a state retirement system or a state optional

1 annuity or retirement program or is placed on disability
2 retirement, and who was insured under the state group
3 insurance program at the time of retirement, and who begins
4 receiving retirement benefits immediately after retirement
5 from state office or employment.

6 ~~(i)(h)~~ "State agency" or "agency" means any branch,
7 department, or agency of state government.

8 (j) "State-contracted HMO" means any health
9 maintenance organization under contract with the division to
10 participate in the state group insurance program.

11 ~~(k)(i)~~ "State group health insurance plan" means the
12 state self-insured health insurance plan offered to state
13 officers and employees, retired state officers and employees,
14 and surviving spouses of deceased state officers and employees
15 pursuant to this section.

16 ~~(l)(j)~~ "State group insurance program" or "programs"
17 means the package of insurance plans offered to state officers
18 and employees, retired state officers and employees, and
19 surviving spouses of deceased state officers and employees
20 pursuant to this section, including the state group health
21 insurance plan, health maintenance organization plans, and
22 other plans required or authorized by this section.

23 ~~(m)(k)~~ "State officer" means any constitutional state
24 officer, any elected state officer paid by state warrant, or
25 any appointed state officer who is commissioned by the
26 Governor and who is paid by state warrant.

27 ~~(n)(l)~~ "Surviving spouse" means the widow or widower
28 of a deceased state officer, full-time state employee,
29 part-time state employee, or retiree if such widow or widower
30 was covered as a dependent under the state group health
31 insurance plan or a health maintenance organization plan

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1 established pursuant to this section at the time of the death
2 of the deceased officer, employee, or retiree. "Surviving
3 spouse" also means any widow or widower who is receiving or
4 eligible to receive a monthly state warrant from a state
5 retirement system as the beneficiary of a state officer,
6 full-time state employee, or retiree who died prior to July 1,
7 1979. For the purposes of this section, any such widow or
8 widower shall cease to be a surviving spouse upon his or her
9 remarriage.

10 (3) STATE GROUP INSURANCE PROGRAM.--

11 (a) The Division of State Group Insurance is created
12 within the Department of Management Services, to be headed by
13 a director who shall be appointed by the Governor and
14 confirmed by the Senate. The division shall be a separate
15 budget entity, and the director shall be its agency head for
16 all purposes.

17 1. The director and assistant director shall be exempt
18 from the Career Service System as provided under s.
19 110.205(2)(i) of the state personnel law. In addition to the
20 20 policymaking positions allocated to the Department of
21 Management Services, under s. 110.205(2)(m), the director, as
22 agency head, may designate as being exempt from the Career
23 Service System a maximum of 10 positions determined by the
24 director to have policymaking or managerial responsibilities
25 comparable to such positions.

26 2. The Department of Management Services shall provide
27 administrative support and service to the division to the
28 extent requested by the director. The division shall not be
29 subject to control, supervision, or direction by the
30 Department of Management Services in any manner, including,
31 but not limited to, personnel, purchasing, transactions

1 involving real or personal property, and budgetary matters,
2 except to the extent as provided in this chapter and chapters
3 216, 255, 282, and 287 for agencies of the executive branch.

4 (e)1. Notwithstanding the provisions of chapter 287
5 and the authority of the Division of Purchasing, for the
6 purpose of protecting the health of, and providing medical
7 services to, state employees participating in the state group
8 insurance program ~~Employees' Health Self-Insurance Plan~~, the
9 Division of State Group Insurance may contract to retain the
10 services of professional administrators for the state group
11 insurance program ~~Employees' Health Self-Insurance Plan~~. The
12 division ~~agency~~ shall follow good purchasing practices of
13 state procurement to the extent practicable under the
14 circumstances.

15 2. Each vendor in a major procurement, and any other
16 vendor if the division deems it necessary to protect the
17 state's financial interests, shall, at the time of executing
18 any contract with the division, post an appropriate bond with
19 the division in an amount determined by the division to be
20 adequate to protect the state's interests but not higher than
21 the full amount estimated to be paid annually to the vendor
22 under the contract.

23 3. Each major contract entered into by the division
24 pursuant to this section shall contain a provision for payment
25 of liquidated damages to the division for material
26 noncompliance by a vendor with a contract provision. The
27 division may require a liquidated damages provision in any
28 contract if the division deems it necessary to protect the
29 state's financial interests.

30 4. The provisions of s. 120.57(3) apply to the
31 division's contracting process, except:

1 a. A formal written protest of any decision, intended
2 decision, or other action subject to protest shall be filed
3 within 72 hours after receipt of notice of the decision,
4 intended decision, or other action.

5 b. As an alternative to any provision of s. 120.57(3),
6 the division may proceed with the bid selection or contract
7 award process if the director of the division ~~department~~ sets
8 forth, in writing, particular facts and circumstances which
9 demonstrate the necessity of continuing the procurement
10 process or the contract award process in order to avoid a
11 substantial disruption to the provision of any scheduled
12 insurance services.

13 (h)1. A person eligible to participate in the state
14 group ~~health~~ insurance program plan may be authorized by rules
15 adopted by the division, in lieu of participating in the state
16 group health insurance plan, to exercise an option to elect
17 membership in a health maintenance organization plan which is
18 under contract with the state in accordance with criteria
19 established by this section and by said rules. The offer of
20 optional membership in a health maintenance organization plan
21 permitted by this paragraph may be limited or conditioned by
22 rule as may be necessary to meet the requirements of state and
23 federal laws.

24 2. The division shall contract with health maintenance
25 organizations to participate in the state group insurance
26 program through a request for proposal based upon a premium
27 and a minimum benefit package as follows:

28 a. A minimum benefit package to be provided by a
29 participating HMO shall include: physician services; inpatient
30 and outpatient hospital services; emergency medical services,
31 including out-of-area emergency coverage; diagnostic

1 laboratory and diagnostic and therapeutic radiologic services;
2 mental health, alcohol, and chemical dependency treatment
3 services meeting the minimum requirements of state and federal
4 law; skilled nursing facilities and services; prescription
5 drugs; and other benefits as may be required by the division.
6 Additional services may be provided subject to the contract
7 between the division and the HMO.

8 b. A uniform schedule for deductibles and copayments
9 may be established for all participating HMOs.

10 c. Based upon the minimum benefit package and
11 copayments and deductibles contained in sub-subparagraphs a.
12 and b., the division shall issue a request for proposal for
13 all HMOs which are interested in participating in the state
14 group insurance program. Upon receipt of all proposals, the
15 division may, as it deems appropriate, enter into contract
16 negotiations with HMOs submitting bids. As part of the request
17 for proposal process, the division may require detailed
18 financial data from each HMO which participates in the bidding
19 process for the purpose of determining the financial stability
20 of the HMO.

21 d. In determining which HMOs to contract with, the
22 division shall, at a minimum, consider: each proposed
23 contractor's previous experience and expertise in providing
24 prepaid health benefits; each proposed contractor's historical
25 experience in enrolling and providing health care services to
26 participants in the state group insurance program; the cost of
27 the premiums; the plan's ability to adequately provide service
28 coverage and administrative support services as determined by
29 the division; plan benefits in addition to the minimum benefit
30 package; accessibility to providers; and the financial
31 solvency of the plan. Nothing shall preclude the division from

1 negotiating regional or statewide contracts with health
2 maintenance organization plans when this is cost-effective and
3 when the division determines the plan has the best overall
4 benefit package for the service areas involved. However, no
5 HMO shall be eligible for a contract if the HMO's retiree
6 Medicare premium exceeds the retiree rate as set by the
7 division for the state group health insurance plan.

8 e. The division may limit the number of HMOs that it
9 contracts with in each service area based on the nature of the
10 bids the division receives, the number of state employees in
11 the service area, or ~~and~~ any unique geographical
12 characteristics of the service area. The division shall
13 establish by rule service areas throughout the state.

14 f. All persons participating in the state group
15 insurance program who are required to contribute towards a
16 total state group health premium shall be subject to the same
17 dollar contribution regardless of whether the enrollee enrolls
18 in the state group health insurance plan or in an HMO plan.

19 3. The division is authorized to negotiate and to
20 contract with specialty psychiatric hospitals for mental
21 health benefits, on a regional basis, for alcohol, drug abuse,
22 and mental and nervous disorders. The division may establish,
23 subject to the approval of the Legislature pursuant to
24 subsection (5), any such regional plan upon completion of an
25 actuarial study to determine any impact on plan benefits and
26 premiums.

27 4. In addition to contracting pursuant to subparagraph
28 2., the division shall enter into contract with any HMO to
29 participate in the state group insurance program which:

30 a. Serves greater than 5,000 recipients on a prepaid
31 basis under the Medicaid program;

1 b. Does not currently meet the 25 percent
2 non-Medicare/non-Medicaid enrollment composition requirement
3 established by the Department of Health and Human Services
4 excluding participants enrolled in the state group insurance
5 program;

6 c. Meets the minimum benefit package and copayments
7 and deductibles contained in sub-subparagraphs 2.a. and b.;

8 d. Is willing to participate in the state group
9 insurance program at a cost of premiums that is not greater
10 than 95 percent of the cost of HMO premiums accepted by the
11 division in each service area; and

12 e. Meets the minimum surplus requirements of s.
13 641.225.

14
15 The division is authorized to contract with HMOs that meet the
16 requirements of sub-subparagraphs a. through d. prior to the
17 open enrollment period for state employees. The division is
18 not required to renew the contract with the HMOs as set forth
19 in this paragraph more than twice. Thereafter, the HMOs shall
20 be eligible to participate in the state group insurance
21 program only through the request for proposal process
22 described in subparagraph 2.

23 5. All enrollees in the state group health insurance
24 plan or any health maintenance organization plan shall have
25 the option of changing to any other health plan which is
26 offered by the state within any open enrollment period
27 designated by the division. Open enrollment shall be held at
28 least once each calendar year.

29 6. Any HMO participating in the state group insurance
30 program shall, upon the request of the division, submit to the
31 division standardized data for the purpose of comparison of

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1 the appropriateness, quality, and efficiency of care provided
2 by the HMO. Such standardized data shall include: membership
3 profiles; inpatient and outpatient utilization by age and sex,
4 type of service, provider type, and facility; and emergency
5 care experience. Requirements and timetables for submission of
6 such standardized data and such other data as the division
7 deems necessary to evaluate the performance of participating
8 HMOs shall be adopted by rule.

9 7. The division shall, after consultation with
10 representatives from each of the unions representing state and
11 university employees, establish a comprehensive package of
12 insurance benefits including, but not limited to, supplemental
13 health and life coverage, dental care, long-term care, and
14 vision care to allow state employees the option to choose the
15 benefit plans which best suit their individual needs.

16 a. Based upon a desired benefit package, the division
17 shall issue a request for proposal for health insurance
18 providers interested in participating in the state group
19 insurance program, and the division shall issue a request for
20 proposal for insurance providers interested in participating
21 in the non-health-related components of the state group
22 insurance program. Upon receipt of all proposals, the
23 division may enter into contract negotiations with insurance
24 providers submitting bids or negotiate a specially designed
25 benefit package. Insurance providers offering or providing
26 supplemental coverage as of May 30, 1991, which qualify for
27 pretax benefit treatment pursuant to s. 125 of the Internal
28 Revenue Code of 1986, with 5,500 or more state employees
29 currently enrolled may be included by the division in the
30 supplemental insurance benefit plan established by the
31 division without participating in a request for proposal,

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1 submitting bids, negotiating contracts, or negotiating a
2 specially designed benefit package. These contracts shall
3 provide state employees with the most cost-effective and
4 comprehensive coverage available; however, no state or agency
5 funds shall be contributed toward the cost of any part of the
6 premium of such supplemental benefit plans.

7 b. Pursuant to the applicable provisions of s.
8 110.161, and s. 125 of the Internal Revenue Code of 1986, the
9 division shall enroll in the pretax benefit program those
10 state employees who voluntarily elect coverage in any of the
11 supplemental insurance benefit plans as provided by
12 sub-subparagraph a.

13 c. Nothing herein contained shall be construed to
14 prohibit insurance providers from continuing to provide or
15 offer supplemental benefit coverage to state employees as
16 provided under existing agency plans.

17 (i) The benefits of the insurance authorized by this
18 section shall not be in lieu of any benefits payable under
19 chapter 440, the Workers' Compensation Law. The insurance
20 authorized by this law shall not be deemed to constitute
21 insurance to secure workers' compensation benefits as required
22 by chapter 440.

23 (4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE;
24 LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.--

25 (a) Except as provided in paragraph (e) with respect
26 to law enforcement officers, correctional, and correctional
27 probation officers, and firefighters, legislative
28 authorization through the appropriations act is required for
29 payment by a state agency of any part of the premium cost of
30 participation in any group insurance plan. However, the state
31 contribution for full-time employees or part-time permanent

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1 employees shall continue in the respective proportions for up
2 to 6 months for any such officer or employee who has been
3 granted an approved parental or medical leave of absence
4 without pay.

5 (e) No state contribution for the cost of any part of
6 the premium shall be made for retirees or surviving spouses
7 for any type of coverage under the state group insurance
8 program. However, any state agency that employs a full-time
9 law enforcement officer, correctional officer, or correctional
10 probation officer who is killed or suffers catastrophic injury
11 in the line of duty as provided in s. 112.19, or a full-time
12 firefighter who is killed or suffers catastrophic injury in
13 the line of duty as provided in s. 112.191, on or after July
14 1, 1980, as a result of an act of violence inflicted by
15 another person while the officer is engaged in the performance
16 of law enforcement duties or as a result of an assault against
17 the officer under riot conditions shall pay the entire premium
18 of the state group health insurance plan for the employee's
19 surviving spouse until remarried, and for each dependent child
20 of the employee subject to the conditions and limitations set
21 forth in s. 112.19 or s. 112.191, as applicable until the
22 child reaches the age of majority or until the end of the
23 calendar year in which the child reaches the age of 25 if:

24 1. ~~At the time of the employee's death, the child is~~
25 ~~dependent upon the employee for support; and~~

26 2. ~~The surviving child continues to be a dependent for~~
27 ~~support, or the surviving child is a full-time or part-time~~
28 ~~student and is dependent for support.~~

29 (5) DIVISION OF STATE GROUP INSURANCE; POWERS AND
30 DUTIES.--The division is responsible for the administration of
31 the state group insurance program. The division shall

1 initiate and supervise the program as established by this
2 section and shall adopt such rules as are necessary to perform
3 its responsibilities. To implement this program, the division
4 shall, with prior approval by the Legislature:

5 (a) Determine the benefits to be provided and the
6 contributions to be required for the state group insurance
7 program. Such determinations, whether for a contracted plan or
8 a self-insurance plan pursuant to paragraph (c), do not
9 constitute rules within the meaning of s. 120.52 or final
10 orders within the meaning of s. 120.52. Any physician's fee
11 schedule used in the health and accident plan shall not be
12 available for inspection or copying by medical providers or
13 other persons not involved in the administration of the
14 program. However, in the determination of the design of the
15 program, the division shall consider existing and
16 complementary benefits provided by the Florida Retirement
17 System and the Social Security System.

18 (b) Prepare, in cooperation with the Department of
19 Insurance, the specifications necessary to implement the
20 program.

21 (c) Contract on a competitive proposal basis with an
22 insurance carrier or carriers, or professional administrator,
23 determined by the Department of Insurance to be fully
24 qualified, financially sound, and capable of meeting all
25 servicing requirements. Alternatively, the division may
26 self-insure any plan or plans contained in the state group
27 insurance program subject to approval based on actuarial
28 soundness by the Department of Insurance. The division may
29 contract with an insurance company or professional
30 administrator qualified and approved by the Department of
31 Insurance to administer such plan. Before entering into any

1 contract, the division shall advertise for competitive
2 proposals, and such contract shall be let upon the
3 consideration of the benefits provided in relationship to the
4 cost of such benefits. In determining which entity to contract
5 with, the division shall, at a minimum, consider: the
6 entity's previous experience and expertise in administering
7 group insurance or self-funded programs of the type it
8 proposes to administer; the entity's ability to specifically
9 perform its contractual obligations in this state and other
10 governmental jurisdictions; the entity's anticipated
11 administrative costs and claims experience; the entity's
12 capability to adequately provide service coverage and
13 sufficient number of experienced and qualified personnel in
14 the areas of claims processing, recordkeeping, and
15 underwriting, as determined by the division; the entity's
16 accessibility to state employees and providers; the financial
17 solvency of the entity, using accepted business sector
18 measures of financial performance. The division may contract
19 for medical services which will improve the health or reduce
20 medical costs for employees who participate in the state group
21 insurance plan.

22 (d) With respect to the state group health insurance
23 plan, be authorized to require copayments with respect to all
24 providers under the plan.

25 (e) Have authority to establish a voluntary program
26 for comprehensive health maintenance, which may include health
27 educational components and health appraisals.

28 (f) With respect to any contract with an insurance
29 carrier or carriers or professional administrator entered into
30 by the division, require that the state and the enrollees be
31 held harmless and indemnified for any financial loss caused by

1 the failure of the insurance carrier or professional
2 administrator to comply with the terms of the contract.

3 (g) With respect to any contract with an insurance
4 carrier or carriers, or professional administrator entered
5 into by the division, require that the carrier or professional
6 administrator provide written notice to individual enrollees
7 if any payment due to any health care provider of the enrollee
8 remains unpaid beyond a period of time as specified in the
9 contract.

10 ~~(h) Have authority to establish a voluntary group~~
11 ~~long-term care program or other programs to be funded on a~~
12 ~~pretax contribution basis or on a posttax contribution basis,~~
13 ~~as the division determines.~~

14
15 Final decisions concerning enrollment, the existence of
16 coverage, or covered benefits under the state group ~~health~~
17 insurance program plan shall not be delegated or deemed to
18 have been delegated by the division.

19 (9) PUBLIC RECORDS LAW; EXEMPTION.--Patient medical
20 records and medical claims records of state employees, former
21 state employees, and their eligible covered dependents in the
22 custody or control of the state group insurance program are
23 confidential and exempt from the provisions of s. 119.07(1).
24 Such records shall not be furnished to any person other than
25 the affected state employee or former state employee, or his
26 or her ~~the employee's~~ legal representative, except upon
27 written authorization of the employee or former state
28 employee, but may be furnished in any civil or criminal
29 action, unless otherwise prohibited by law, upon the issuance
30 of a subpoena from a court of competent jurisdiction and
31 proper notice to the employee, former state employee, or his

1 or her the employee's legal representative by the party
2 seeking such records.
3 (12) On or before December 31, 1998, the Department of
4 Elderly Affairs shall design, establish, and implement a
5 self-funded long-term-care plan to be included in the state
6 group insurance program for active, retired, and deceased
7 state, local, and, to the extent allowable under federal law,
8 federal officers and employees; and their respective spouses,
9 children, stepchildren, parents, and parents-in-law. The
10 Department of Elderly Affairs shall determine whether the plan
11 shall be funded on a pre-tax or post-tax contribution basis.
12 Consistent with the selection criteria established in
13 paragraphs 3(e) and 5(c) for the division, the Department of
14 Elderly Affairs shall contract with a professional
15 administrator to implement and market the plan.

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