

STORAGE NAME: h2219a.go
DATE: April 21, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 2219
RELATING TO: Department of Management Services
SPONSOR(S): Representative Sanderson
COMPANION BILL(S): CS/SB 2289 (similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 7 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill reorganizes the Department of Management Services (DMS) transferring functions of the Division of State Group Insurance and the Division of Retirement to DMS and abolishes the Florida State Group Insurance Council.

This act shall take effect July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

DIVISION OF RETIREMENT

The Division of Retirement is responsible for administering the Florida Retirement System (FRS), the State University System Optional Retirement Program, the Senior Management Service Optional Annuity Program, the Retiree Health Insurance Subsidy program, the Institute of Food and Agricultural Sciences Supplemental Retirement Act, and five General Revenue -funded pension plans. The division is also responsible for monitoring local government retirement systems and oversees the Municipal Police and Firefighters' Pension Plans.

The FRS was established December 1, 1970, by consolidating the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was added to the new system. The FRS provides a retirement and survivor benefit program, entirely nonparticipatory, for 791 participating public employers, including state government, all county governments, universities, community colleges, school boards, and many cities and special districts. Although the FRS is a relatively young and maturing system, it is the fourth largest public pension plan in the nation.

The mission of the Division is to provide quality and cost-effective retirement services as measured by member satisfaction and by comparison with administrative costs of comparable retirement systems. The Office of Program Policy Analysis and Government Accountability (OPPAGA) has indicated by their reviews of the division that they are meeting their mission goals in a most satisfactory manner and very cost effectively. Despite continued growth of members and retirees, the division has remained one of the most economical with respect to administrative costs for services provided.

DIVISION OF STATE GROUP INSURANCE

The Division of State Group Insurance is the state agency charged with the management of the self-insured state employee and retiree health insurance plan. It acts as a contract negotiator for the plan administrator. Blue Cross and Blue Shield of Florida, and prequalifies managed care organizations for employee selection during the annual open enrollment period. It also oversees an employee term live insurance program administered by Prudential Insurance Company. Prescription drug coverage is provided by its contractor through participating community pharmacies and through a mail-order drug program.

The division is a relatively autonomous entity although its placement appears within DMS. Its director is appointed by the Governor and the division's policies are reviewed by an advisory body. Enrollment eligibility is determined by statute while the terms of coverage are a function of the contractual providers and the benefits they provide within their plans. There is a minimum plan of benefits that all self-insured and managed care providers must make available to enrollees and their dependents. At the annual open enrollment period each qualifying employee may change providers. All employee paid premiums for insurance are payroll-deducted and routed through a pretax account to shield them from federal taxation. The State of Florida pays each provider company the same allowance for health insurance coverage regardless of employee choice.

B. EFFECT OF PROPOSED CHANGES:

Section 1. Amends s. 20.22, F.S., abolishing the Florida State Group Insurance Council.

Section 2. Amends s. 110.1227, F.S., transferring agency authority now exercised by the Division of State Group Insurance (DSGI) to the DMS.

Sections 3 & 4. Amends ss. 110.123 and 110.12315, F.S., changing nomenclature and agency authority in the same manner as in Section 2, above. Section 3 of the bill also eliminates the DSGI in the definitions section, and renumbers and creates the state group insurance program in subparagraph (3)(a), of the bill.

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- Sections 5 - 7. Amends ss. 110.1232, 110.1234, and 110.161, F.S., providing nomenclature changes and transferring authority from DSGI to the DMS.
- Sections 8 - 31. Amends ss. 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.021, 121.025, 121.027, 121.031, 121.051(1998 Supp.), 121.0511, 121.0515(1998 Supp.), 121.052(1998 Supp.), 121.055(1998 Supp.), 121.071,(1998 Supp.), and 121.081(1998 Supp.), F.S., changing nomenclature, and transferring agency authority from the Division of Retirement to the DMS.
- Section 32. Amends s. 121.091, F.S., (1998 Supp.), changing nomenclature, and transferring authority exercised by DSGI to the DMS in matters authorizing life insurance premium deductions from members' monthly retirement benefits.
- Sections 33 - 38. Amends ss. 121.101, 121.111(1998 Supp.), 121.133(1998 Supp.), 121.135, 121.136, and 121.1815, F.S., changing nomenclature, and transferring authority exercised by the Division of Retirement to the DMS.
- Section 39. Amends s. 121.1905, F.S., creating the Division of Retirement within the DMS.
- Section 40. Amends s. 121.192, F.S., changing nomenclature; transferring authority currently exercised by the Division of Retirement to the DMS; and the Secretary of DMS is substituted for the division director in matters authorizing employment of an actuary for valuation and consulting services.
- Sections 41 - 85. Amends ss. 121.193(1998 Supp.), 121.122, 121.123, 121.124, 121.30(1998 Supp.), 121.35(1998 Supp.), 121.40(1998 Supp.), 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.341(1998 Supp.), 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23(1998 Supp.), 185.35, 185.37, 185.50, 189.412, 215.20(1998 Supp.), 215.28, and 215.50(1998 Supp.), F.S., changing nomenclature and transferring responsibility for the following matters from the Division of Retirement (division) to the DMS:
- * the auditing of personnel and payroll records of participating agencies;
 - * the State Retirement Commission;
 - * adopted rules of procedure for reviewing applications for disability retirement;
 - * legal services and administrative support for the State Retirement Commission;
 - * adoption of rules necessary to qualify under the provisions of the Internal Revenue Code;
 - * the Optional Retirement Program and administration of it;
 - * the Institute of Food and Agricultural Sciences supplemental retirement benefits;
 - * the definition of "state and county officers and employees" for retirement purposes;
 - * participant contributions for prior service credit; conditions and eligibility;
 - * contribution deductions for Legislator services;
 - * contribution deductions for legislative employee services;
 - * seasonal state employment and time limited election to receive retirement credit;
 - * state and county officers and employee classifications and retirement eligibility;
 - * officer and employee elections for retirement contribution refunds and separation from service;
 - * officer and employee beneficiary designations and contribution refunds;
 - * adoption of rules for the administration of the state and county officers and employee retirement law;
 - * the deduction of premiums for group hospitalization insurance from the retirement benefit paid to a member;
 - * employment after retirement; reemployment limitation period;
 - * nomenclature substitutions in the definition section;
 - * appropriations from the intangible tax fund of the state;
 - * special retirement provisions for high hazard members;
 - * calculation of local agency credit for providing matching retirement and social security benefit contributions to employees;
 - * nomenclature substitutions in the definition section;

- * property insurance premiums reporting and disclosure requirements; excise taxes imposed by municipalities and special fire control districts;
- * accounting for moneys in the Premium Tax Trust Fund;
- * the firefighters' pension trust funds and the submission of actuarial reports;
- * overseeing and monitoring the actuarial soundness of firefighters' pension plans; rule making authority;
- * municipalities and special fire control districts having independent pension plans for firefighters; pension fund standards and criteria for participation in excise tax fund distributions;
- * discontinued funding by municipality or special fire control district pension plans and procedures for dissolution and distribution;
- * the firefighters' retiree health insurance subsidy trust fund and the submission of actuarial reports;
- * nomenclature substitutions in the definition section;
- * casualty insurance premiums reporting and disclosure requirements; excise taxes imposed by municipalities;
- * accounting for moneys in the Police and Firefighters' Premium Tax Trust Fund and pension plan oversight;
- * administration of Police and Firefighters' Premium Tax Trust Fund;
- * municipal police officers' retirement trust funds and the submission of actuarial reports;
- * overseeing and monitoring the actuarial soundness of municipal police officers' retirement plans; rule making authority;
- * municipalities having independent pension plans for police officers; pension fund standards and criteria for participation in excise tax fund distributions;
- * discontinued funding by municipality pension plans and procedures for dissolution and distribution;
- * the municipal police officers' retiree health insurance subsidy trust fund and the submission of actuarial reports;
- * special district compliance status reports;
- * trust fund contributions to the General Revenue Fund;
- * payroll deduction for United States Securities;
- * collection of security interest, dividends, prepayments, maturities, proceeds from sales and other income by the Treasurer; and provisions for paying benefits or other operational needs.

Sections 86 - 111. Amends ss.238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051(1998 Supp.), 633.382, and 650.02, F.S., changing nomenclature and transferring responsibility for the following matters from the Division of Retirement to the DMS:

- * nomenclature substitutions in the definition section;
- * an established retirement system for teachers of the state and management of it;
- * administering the Teachers' Retirement System and the appropriate adoption of rules;
- * membership in the Teachers' Retirement System;
- * determining disability benefits, regular retirement benefits, and survivor benefits for the teachers' retirement system;
- * the selection of a retirement benefit option by a member of the Teachers' Retirement System;
- * the function and purpose of the Annuity Savings Trust Fund, the Pension Accumulation Trust Fund, the Expense Trust Fund, and the Survivors' Benefit Trust Fund within the Teachers' Retirement System;
- * the treatment of interest and dividends earned, within each trust fund, from investments;
- * the collection of contributions from members of the Teachers' Retirement System;
- * the duty of the employer to keep and furnish records regarding member contributions to the retirement system;
- * falsification of retirement records and attempts to defraud the Teachers' Retirement System;
- * the exemption of fund assets from taxation, execution, and assignment;
- * monthly allowances for teachers who become incapacitated and were never eligible to participate in the Teachers' Retirement System;

- * the conditions and limitations for teachers seeking reemployment after having already retired;
- * service credit disputes;
- * the State Community College System Optional Retirement Program;
- * administering and computing time of service of an enlisted person in the Florida National Guard for retirement purposes;
- * member payment for retirement service credit to the Highway Patrol Pension Trust Fund;
- * the computation for length of service for law enforcement officers prior to becoming a member of the Florida Highway Patrol for retirement purposes;
- * determining non-service disability benefits for Highway Patrol members;
- * determining retirement benefits for Highway Patrol members who become deceased subsequent to his or her normal retirement date but prior to actual retirement;
- * the conditions and limitations for Highway Patrol members seeking reemployment after having already retired;
- * conditions guiding retirement benefit options for surviving spouses;
- * blind licensees who are eligible to maintain membership in the Florida Retirement System;
- * the redistribution of accrued or accruing funds in the Firefighters' Supplemental Compensation Trust Fund; and
- * nomenclature substitution in the definition section.

Section 112. Requires each department of the executive branch to survey each board, commission, and other such entity under its jurisdiction and recommend whether the entity should be abolished, continued, or revised. This information shall be provided to the Department of Management Services in the electronic format provided by that department. The Department of Management Services shall report the findings from all departments to the Governor and the Legislature by December 1, 1999.

Section 113. Provides an effective date of July 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

This bill transfers the duties and responsibilities of the Division of Retirement and the Division of State Group Insurance to the Department of Management Services.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

This bill does not eliminate or reduce an agency or program.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 20.22, 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.021, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.101, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192, 121.193, 121.22, 121.23, 121.24, 121.30, 121.35, 121.40, 121.45, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.341, 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23, 185.35, 185.37, 185.50, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, and 650.02, F.S.

E. SECTION-BY-SECTION ANALYSIS:

See section-by-section analysis at II. B., Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The Florida Retirement System derives funding solely from prefunded payroll contributions of participating employers on behalf of their employees. Unlike most state programs, the Division of Retirement: does not compete for General Revenue funding for its operations; exists in perpetuity for its members and participants; is not an integral part of other state programs; and is constitutionally required to be funded on a sound actuarial basis, regardless of the state of the overall economy. The divisions' fiduciary responsibility extends from the ensuring of actuarially sound benefits and the

proper administration and accounting of each state and local retirement plan to the servicing of its members with accurate, timely information for retirement planning.

The reorganization envisioned in this bill will result in the division no longer existing as an autonomous budget entity.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to expend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the amount of a state tax shared with counties or municipalities.

V. COMMENTS:

The changes to chapters 175 and 185, F.S., included in this bill, may conflict with language passed in CS/HB 261, which became Chapter 99-1, L.O.F.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its April 21, 1999, committee meeting, the Committee on Governmental Operations adopted twenty-three (23) amendments to HB 2219 which did the following:

Amendment 1, removes all references to chs. 175 and 185, F.S., because as amended in this bill they will conflict with the earlier enactment of ch. 99-1, L.O.F., related to firefighter and police pension plans under these chapters.

Amendments 2 - 20, are miscellaneous glitch and statutory clean-up amendments for the Division of State Group Insurance as follows: Amendment 2, clarifies the definition of "enrollee"; Amendment 3, provides a definition of "health plan member"; Amendment 4, provides a definition of "state-contracted HMO"; Amendment 5, clarifies the definition of "state group health insurance plan" or "state plan"; Amendment 6, corrects certain references to the state group insurance program; Amendment 7, provides that eligibility to participate in the state group insurance program may be authorized by rules adopted by the department and providing for optional membership in a health maintenance organization; Amendment 8, provides for the use of various contracting systems in the procurement of managed care services, including a request for proposal, invitation to bid, and invitation to negotiate; providing that the department may require additional detailed information on each managed care organization's ability to meet service requirements; and providing the department will make its selection on the basis of the plan that offers high value to enrollees, rather than the best overall benefit package for the affected service area; Amendment 9, deletes specific authority for contracting with specialty psychiatric hospitals because the department as a purchaser, not a payer, does not need or want this authority; Amendment 10, reduces the detailed listing of information required to be submitted by managed care organizations for participation in the state group insurance plan; providing that such information will be determined by rulemaking of the department; and providing the department shall develop its comprehensive insurance benefit package in furtherance of its duties in collective bargaining matters; Amendment 11, provides that employer assumption of insurance premiums conditioned by a firefighter or law enforcement officer's incurring of a catastrophic injury is rephrased to bring s. 110.123, F.S., into compliance with amendments made to ss. 112.19 and 112.191, F.S., on the same subject; Amendment 12, provides that any state agency that employs a full-time law enforcement officer, correctional officer, correctional probation officer, or firefighter who is killed or suffers catastrophic injury in the line of duty as provided in ss. 112.19, and 112.191, F.S., shall pay the entire

premium of the state group health insurance plan for the employee's surviving spouse until remarried, and for each dependent child of the employee subject to the conditions and limitations set forth in these two sections, as applicable; Amendment 13, provides that state employees may participate in the state group health insurance plan at the time of receiving their state retirement benefits; Amendment 14, clarifies the department's role as the final authority in decisions concerning enrollment, the existence of coverage, or covered benefits; Amendment 15, provides grammatical and syntactical changes to a public records exemption governing the confidentiality of state group insurance records, but not expanding the exemption relative to the provisions contained in Art. 1, s. 24(c), Florida Constitution; Amendment 16, revises the state group drug program as follows: deletes existing statutory language specifying employee drug co-payments and transfers that authority to the General Appropriations Act or relevant implementing legislation; provides continuation of the current dispensing fee for retail pharmacies; provides continuation of a mail-order prescription drug program for program participants; providing for a uniform reimbursement rate for participating retail pharmacies; providing that participating pharmacies must maintain an on-line computer system to verify participant eligibility and must agree to make their records available for utilization review actions undertaken by the program; and providing responsibilities for establishing reimbursement schedules for prescription pharmaceuticals and for implementing cost saving measures; Amendment 17, provides technical nomenclature changes; Amendment 18, deletes a reference to an overcharge refund cap of \$1,000 per admission and replaces it with a maximum cap of \$1000 which will allow for refund payments on any amounts recovered for overcharges on outpatient and physician services in addition to hospital admissions; Amendment 19, generally clarifies and makes technical nomenclature changes to the state employees' pre-tax benefits program; Amendment 20, provides cross-referencing changes to the department with reference to the Cooperative Personnel Employment Subsystem (COPES).

Amendment 21, provides that effective July 1, 1999, any legislative member who terminates his or her elected service after July 1, 1999, after having vested in the state retirement system, may purchase coverage in the state group health insurance plan at the same premium cost as that for retirees and surviving spouses (this is full premium cost without any health insurance subsidy).

Amendment 22, prohibits the Division of State Group Insurance from implementing a drug formulary or prior authorization program which limits access to prescription drugs for state employees beyond what is already authorized statutorily (generics, starter doses, and long term medications); terminates the prior authorization program that was expanded based on the 1998-99 budget proviso language passed in the conference report on the GAA; clarifies that this amendment language prohibiting the division from restricting access to prescription drugs prevails over language implementing such a program through the GAA; and makes this section of the bill effective upon becoming law.

Amendment 23, establishes conditions under which voice mail systems shall be utilized.

The bill, as amended, was reported favorably on a unanimous vote and the amendments are traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jimmy O. Helms

Jimmy O. Helms