

By Senator Thomas

3-975A-99

1 A bill to be entitled
2 An act relating to the State Group Insurance
3 Program; amending s. 20.22, F.S.; clarifying
4 provisions relating to operation of the
5 Division of State Group Insurance; modifying
6 the role of the director of the Division of
7 State Group Insurance and staff thereof with
8 respect to the Florida State Group Insurance
9 Council; amending s. 110.123, F.S.; revising
10 and adding definitions; providing for Career
11 Service exemptions in the Division of State
12 Group Insurance; clarifying and correcting
13 references; clarifying requirements for
14 contracting with health maintenance
15 organizations; deleting authority to negotiate
16 with specialty psychiatric hospitals; providing
17 for the establishment of a comprehensive
18 package of insurance benefits which best suits
19 individual and family needs; updating
20 provisions relating to agency payment of
21 premiums for certain employees injured or
22 killed in the line of duty, to conform to
23 existing law; providing that state employees
24 may participate in the state group health
25 insurance program at the time of receiving
26 their retirement benefits; providing coverage
27 in the state group health insurance plan for
28 certain legislative members; amending s.
29 110.12315, F.S.; revising, clarifying, and
30 reorganizing provisions relating to the state
31 employees' prescription drug program; amending

1 s. 110.1232, F.S., relating to health insurance
2 coverage for certain state retirees; conforming
3 references; amending s. 110.1234, F.S.,
4 relating to Medicare supplement coverage for
5 state retirees; conforming a reference;
6 amending s. 110.1238, F.S., relating to refunds
7 with respect to provider overcharges; modifying
8 the refund cap; amending s. 110.161, F.S.,
9 relating to the State Employees Pretax Benefits
10 Program Act; correcting references and updating
11 provisions; amending s. 110.205, F.S.;
12 conforming provisions to changes made by the
13 act; providing for the designation of Senior
14 Management Service positions; amending s.
15 121.025, F.S.; providing for the designation of
16 Senior Management Service positions; amending
17 s. 215.94, F.S., relating to State Group
18 Insurance; conforming references; providing an
19 effective date.

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

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23 Section 1. Paragraphs (a), (c), and (e) of subsection
24 (5) of section 20.22, Florida Statutes, are amended to read:

25 20.22 Department of Management Services.--There is
26 created a Department of Management Services.

27 (5)(a) The Florida State Group Insurance Council is
28 created within the Division of State Group Insurance for the
29 purpose of providing joint and coordinated oversight of the
30 operation and administration of the state group insurance
31 program. The council shall consist of the state budget

1 | director or his or her designee; an individual from the
2 | private sector with an extensive health administration
3 | background, appointed by the Governor; a member of the Florida
4 | Senate, appointed by the President of the Senate; a member of
5 | the Florida House of Representatives, appointed by the Speaker
6 | of the House of Representatives; a representative of the State
7 | University System, appointed by the Board of Regents; the
8 | State Insurance Commissioner or his designee; the director of
9 | the Division of Retirement or his or her designee; and two
10 | representatives of employees and retirees, appointed by the
11 | Governor. Members of the council appointed by the Governor
12 | shall be appointed to serve terms of 4 years each. Each
13 | member of the council shall serve until a successor is
14 | appointed. ~~Additionally,~~The director of the Division of
15 | State Group Employee Insurance shall not be a ~~nonvoting~~ member
16 | of the council but shall assume responsibility for ensuring
17 | the provision of administrative, analytical, and technical
18 | support to the council.

19 | (c) The council is assigned to the Division of State
20 | Group Insurance for administrative and fiscal accountability
21 | purposes, but the council ~~and its staff~~ shall otherwise
22 | function independently of the control and direction of the
23 | division. The division ~~of State Group Insurance~~ shall furnish
24 | ~~dedicated administrative and secretarial assistance to the~~
25 | ~~council, and other~~ assistance to the council as requested.

26 | (e) The council or a member thereof may not enter into
27 | the day-to-day operation of the Division of State Group
28 | Insurance and is specifically prohibited from taking part in:

- 29 | 1. The awarding or termination of contracts.
- 30 | 2. The selection of a consultant or contractor or the
31 | prequalification of any individual consultant or contractor.

1 However, the council may recommend to the director standards
2 and policies governing the procedure for selection and
3 prequalification of consultants and contractors.

4 3. The employment, promotion, demotion, suspension,
5 transfer, or discharge of any division personnel.

6 4. The granting, denial, suspension, or revocation of
7 any license or permit issued by the division.

8 Section 2. Subsection (2), paragraphs (a), (e), and
9 (h) of subsection (3), paragraphs (a) and (e) of subsection
10 (4), and subsections (5), (8), and (9) of section 110.123,
11 Florida Statutes, 1998 Supplement, are amended, and paragraph
12 (h) is added to subsection (4) of that section, to read:

13 110.123 State group insurance program.--

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

15 (a) "Department" means the Department of Management
16 Services.

17 (b) "Division" means the Division of State Group
18 Insurance in the department.

19 (c) "Enrollee" means all state officers and employees,
20 retired state officers and employees, ~~and~~ surviving spouses of
21 deceased state officers and employees, and terminated
22 employees or individuals with continuation coverage who are
23 enrolled in an insurance plan offered by the state group
24 insurance program.

25 (d) "Full-time state employees" includes all full-time
26 employees of all branches or agencies of state government
27 holding salaried positions and paid by state warrant or from
28 agency funds, and employees paid from regular salary
29 appropriations for 8 months' employment, including university
30 personnel on academic contracts, but in no case shall "state
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1 employee" or "salaried position" include persons paid from
2 other-personal-services (OPS) funds.

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

5 (f) "Health plan member" means any person
6 participating in the state group health insurance plan or in a
7 health maintenance organization plan under the state group
8 insurance program, including enrollees and covered dependents
9 thereof.

10 (g)~~(f)~~ "Part-time state employee" means any employee
11 of any branch or agency of state government paid by state
12 warrant from salary appropriations or from agency funds, and
13 who is employed for less than the normal full-time workweek
14 established by the department or, if on academic contract or
15 seasonal or other type of employment which is less than
16 year-round, is employed for less than 8 months during any
17 12-month period, but in no case shall "part-time" employee
18 include a person paid from other-personal-services (OPS)
19 funds.

20 (h)~~(g)~~ "Retired state officer or employee" or
21 "retiree" means any state officer or state employee who
22 retires under a state retirement system or a state optional
23 annuity or retirement program or is placed on disability
24 retirement, and who was insured under the state group
25 insurance program at the time of retirement, and who begins
26 receiving retirement benefits immediately after retirement
27 from state office or employment.

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

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

4 ~~(k)(i)~~ "State group health insurance plan" or "state
5 plan" means the state self-insured health insurance plan
6 offered to state officers and employees, retired state
7 officers and employees, and surviving spouses of deceased
8 state officers and employees pursuant to this section.

9 (l)(j) "State group insurance program" or "programs"
10 means the package of insurance plans offered to state officers
11 and employees, retired state officers and employees, and
12 surviving spouses of deceased state officers and employees
13 pursuant to this section, including the state group health
14 insurance plan, health maintenance organization plans, and
15 other plans required or authorized by this section.

16 ~~(m)(k)~~ "State officer" means any constitutional state
17 officer, any elected state officer paid by state warrant, or
18 any appointed state officer who is commissioned by the
19 Governor and who is paid by state warrant.

20 (n)(l) "Surviving spouse" means the widow or widower
21 of a deceased state officer, full-time state employee,
22 part-time state employee, or retiree if such widow or widower
23 was covered as a dependent under the state group health
24 insurance plan or a health maintenance organization plan
25 established pursuant to this section at the time of the death
26 of the deceased officer, employee, or retiree. "Surviving
27 spouse" also means any widow or widower who is receiving or
28 eligible to receive a monthly state warrant from a state
29 retirement system as the beneficiary of a state officer,
30 full-time state employee, or retiree who died prior to July 1,
31 1979. For the purposes of this section, any such widow or

1 widower shall cease to be a surviving spouse upon his or her
2 remarriage.

3 (3) STATE GROUP INSURANCE PROGRAM.--

4 (a) The Division of State Group Insurance is created
5 within the Department of Management Services, to be headed by
6 a director who shall be appointed by the Governor and
7 confirmed by the Senate. The division shall be a separate
8 budget entity, and the director shall be its agency head for
9 all purposes.

10 1. The director and assistant director are exempt from
11 the Career Service System as provided under s. 110.205(2)(i).
12 In addition to the 20 policymaking positions allocated to the
13 Department of Management Services, under s. 110.205(2)(m), the
14 director, as agency head, may designate as being exempt from
15 the Career Service System a maximum of 10 positions determined
16 by the director to have policymaking or managerial
17 responsibilities comparable to such positions.

18 2. The Department of Management Services shall provide
19 administrative support and service to the division to the
20 extent requested by the director. The division shall not be
21 subject to control, supervision, or direction by the
22 Department of Management Services in any manner, including,
23 but not limited to, personnel, purchasing, transactions
24 involving real or personal property, and budgetary matters,
25 except to the extent as provided in this chapter and chapters
26 216, 255, 282, and 287 for agencies of the executive branch.

27 (e)1. Notwithstanding the provisions of chapter 287
28 and the authority of the department, for the purpose of
29 protecting the health of, and providing medical services to,
30 state employees participating in the state group insurance
31 program ~~Employees' Health Self-Insurance Plan~~, the Division of

1 State Group Insurance may contract to retain the services of
2 professional administrators for the state group insurance
3 program ~~Employees' Health Self-Insurance Plan~~. The division
4 ~~agency~~ shall follow good purchasing practices of state
5 procurement to the extent practicable under the circumstances.

6 2. Each vendor in a major procurement, and any other
7 vendor if the division deems it necessary to protect the
8 state's financial interests, shall, at the time of executing
9 any contract with the division, post an appropriate bond with
10 the division in an amount determined by the division to be
11 adequate to protect the state's interests but not higher than
12 the full amount estimated to be paid annually to the vendor
13 under the contract.

14 3. Each major contract entered into by the division
15 pursuant to this section shall contain a provision for payment
16 of liquidated damages to the division for material
17 noncompliance by a vendor with a contract provision. The
18 division may require a liquidated damages provision in any
19 contract if the division deems it necessary to protect the
20 state's financial interests.

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

23 a. A formal written protest of any decision, intended
24 decision, or other action subject to protest shall be filed
25 within 72 hours after receipt of notice of the decision,
26 intended decision, or other action.

27 b. As an alternative to any provision of s. 120.57(3),
28 the division may proceed with the bid selection or contract
29 award process if the director of the division ~~department~~ sets
30 forth, in writing, particular facts and circumstances which
31 demonstrate the necessity of continuing the procurement

1 process or the contract award process in order to avoid a
2 substantial disruption to the provision of any scheduled
3 insurance services.

4 (h)1. A person eligible to participate in the state
5 group ~~health insurance program plan~~ may be authorized by rules
6 adopted by the division, in lieu of participating in the state
7 group health insurance plan, to exercise an option to elect
8 membership in a health maintenance organization plan which is
9 under contract with the state in accordance with criteria
10 established by this section and by said rules. The offer of
11 optional membership in a health maintenance organization plan
12 permitted by this paragraph may be limited or conditioned by
13 rule as may be necessary to meet the requirements of state and
14 federal laws.

15 2. The division shall contract with health maintenance
16 organizations seeking to participate in the state group
17 insurance program through a request for proposal or other
18 procurement process, as developed by the Department of
19 Management Services and determined to be appropriate by the
20 director of the division.~~based upon a premium and a minimum~~
21 ~~benefit package as follows:~~

22 a. The division shall establish a schedule of minimum
23 benefits for health maintenance organization coverage, and
24 that schedule ~~A minimum benefit package to be provided by a~~
25 ~~participating HMO~~ shall include: physician services; inpatient
26 and outpatient hospital services; emergency medical services,
27 including out-of-area emergency coverage; diagnostic
28 laboratory and diagnostic and therapeutic radiologic services;
29 mental health, alcohol, and chemical dependency treatment
30 services meeting the minimum requirements of state and federal
31 law; skilled nursing facilities and services; prescription

1 | drugs; and other benefits as may be required by the division.
2 | Additional services may be provided subject to the contract
3 | between the division and the HMO.

4 | b. The division may establish ~~A uniform schedule for~~
5 | deductibles, and copayments, or coinsurance schedules ~~may be~~
6 | established for all participating HMO plans ~~HMOs~~.

7 | c. The division may require detailed information from
8 | each health maintenance organization participating in the
9 | procurement process, including information pertaining to
10 | organizational status, experience in providing pre-paid health
11 | benefits, accessibility of services, financial stability of
12 | the plan, quality of management services, accreditation
13 | status, quality of medical services, network access and
14 | adequacy, performance measurement, ability to meet the
15 | division's reporting requirements, and the actuarial basis of
16 | the proposed rates and other data determined by the director
17 | to be necessary for the evaluation and selection of health
18 | maintenance organization plans and negotiation of appropriate
19 | rates for these plans. Upon receipt of proposals by health
20 | maintenance organization plans and the evaluation of those
21 | proposals, the division may enter into negotiations with all
22 | of the plans or a subset of the plans, as the division
23 | determines appropriate.~~Based upon the minimum benefit package~~
24 | ~~and copayments and deductibles contained in sub-subparagraphs~~
25 | ~~a. and b., the division shall issue a request for proposal for~~
26 | ~~all HMOs which are interested in participating in the state~~
27 | ~~group insurance program. Upon receipt of all proposals, the~~
28 | ~~division may, as it deems appropriate, enter into contract~~
29 | ~~negotiations with HMOs submitting bids. As part of the request~~
30 | ~~for proposal process, the division may require detailed~~
31 | ~~financial data from each HMO which participates in the bidding~~

1 ~~process for the purpose of determining the financial stability~~
2 ~~of the HMO.~~

3 d. ~~In determining which HMOs to contract with, the~~
4 ~~division shall, at a minimum, consider: each proposed~~
5 ~~contractor's previous experience and expertise in providing~~
6 ~~prepaid health benefits; each proposed contractor's historical~~
7 ~~experience in enrolling and providing health care services to~~
8 ~~participants in the state group insurance program; the cost of~~
9 ~~the premiums; the plan's ability to adequately provide service~~
10 ~~coverage and administrative support services as determined by~~
11 ~~the division; plan benefits in addition to the minimum benefit~~
12 ~~package; accessibility to providers; and the financial~~
13 ~~solvency of the plan. Nothing shall preclude the division from~~
14 ~~negotiating regional or statewide contracts with health~~
15 ~~maintenance organization plans when this is cost-effective and~~
16 ~~when the division determines that the plan offers high value~~
17 ~~to enrollees has the best overall benefit package for the~~
18 ~~service areas involved. However, no HMO shall be eligible for~~
19 ~~a contract if the HMO's retiree Medicare premium exceeds the~~
20 ~~retiree rate as set by the division for the state group health~~
21 ~~insurance plan.~~

22 e. The division may limit the number of HMOs that it
23 contracts with in each service area based on the nature of the
24 bids the division receives, the number of state employees in
25 the service area, or ~~and~~ any unique geographical
26 characteristics of the service area. The division shall
27 establish by rule service areas throughout the state.

28 f. All persons participating in the state group
29 insurance program who are required to contribute towards a
30 total state group health premium shall be subject to the same
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1 dollar contribution regardless of whether the enrollee enrolls
2 in the state group health insurance plan or in an HMO plan.

3 ~~3. The division is authorized to negotiate and to~~
4 ~~contract with specialty psychiatric hospitals for mental~~
5 ~~health benefits, on a regional basis, for alcohol, drug abuse,~~
6 ~~and mental and nervous disorders. The division may establish,~~
7 ~~subject to the approval of the Legislature pursuant to~~
8 ~~subsection (5), any such regional plan upon completion of an~~
9 ~~actuarial study to determine any impact on plan benefits and~~
10 ~~premiums.~~

11 3.4. In addition to contracting pursuant to
12 subparagraph 2., the division shall enter into contract with
13 any HMO to participate in the state group insurance program
14 which:

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

17 b. Does not currently meet the 25 percent
18 non-Medicare/non-Medicaid enrollment composition requirement
19 established by the Department of Health and Human Services
20 excluding participants enrolled in the state group insurance
21 program;

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

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

28 e. Meets the minimum surplus requirements of s.
29 641.225.

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1 The division is authorized to contract with HMOs that meet the
2 requirements of sub-subparagraphs a. through d. prior to the
3 open enrollment period for state employees. The division is
4 not required to renew the contract with the HMOs as set forth
5 in this paragraph more than twice. Thereafter, the HMOs shall
6 be eligible to participate in the state group insurance
7 program only through the request for proposal process
8 described in subparagraph 2.

9 4.5. All enrollees in the state group health insurance
10 plan or any health maintenance organization plan shall have
11 the option of changing to any other health plan which is
12 offered by the state within any open enrollment period
13 designated by the division. Open enrollment shall be held at
14 least once each calendar year.

15 5.6. Any HMO participating in the state group
16 insurance program shall submit health care utilization and
17 cost data to the division, in such form and in such manner as
18 the division shall require, as a condition of participating in
19 the program. The division shall enter into negotiations with
20 its contracting HMOs to determine the nature and scope of the
21 data submission and the final requirements, format, penalties
22 associated with noncompliance, and timetables for submission.
23 ~~These determinations shall be adopted by rule. Any HMO~~
24 ~~participating in the state group insurance program shall, upon~~
25 ~~the request of the division, submit to the division~~
26 ~~standardized data for the purpose of comparison of the~~
27 ~~appropriateness, quality, and efficiency of care provided by~~
28 ~~the HMO. Such standardized data shall include: membership~~
29 ~~profiles; inpatient and outpatient utilization by age and sex;~~
30 ~~type of service, provider type, and facility; and emergency~~
31 ~~care experience. Requirements and timetables for submission of~~

1 ~~such standardized data and such other data as the division~~
2 ~~deems necessary to evaluate the performance of participating~~
3 ~~HMOs shall be adopted by rule.~~

4 6.7. The division may establish and direct, in
5 consultation with the Department of Management Services with
6 respect to collective bargaining issues, a comprehensive
7 package of insurance benefits that may include, supplemental
8 health and life coverage, dental care, long-term care, vision
9 care, and other benefits it determines necessary to enable
10 state employees to select from among benefit options that best
11 suit their individual and family needs.~~shall, after~~
12 ~~consultation with representatives from each of the unions~~
13 ~~representing state and university employees, establish a~~
14 ~~comprehensive package of insurance benefits including, but not~~
15 ~~limited to, supplemental health and life coverage, dental~~
16 ~~care, long-term care, and vision care to allow state employees~~
17 ~~the option to choose the benefit plans which best suit their~~
18 ~~individual needs.~~

19 a. Based upon a desired benefit package, the division
20 shall issue a request for proposal for health insurance
21 providers interested in participating in the state group
22 insurance program, and the division shall issue a request for
23 proposal for insurance providers interested in participating
24 in the non-health-related components of the state group
25 insurance program. Upon receipt of all proposals, the
26 division may enter into contract negotiations with insurance
27 providers submitting bids or negotiate a specially designed
28 benefit package. Insurance providers offering or providing
29 supplemental coverage as of May 30, 1991, which qualify for
30 pretax benefit treatment pursuant to s. 125 of the Internal
31 Revenue Code of 1986, with 5,500 or more state employees

1 currently enrolled may be included by the division in the
2 supplemental insurance benefit plan established by the
3 division without participating in a request for proposal,
4 submitting bids, negotiating contracts, or negotiating a
5 specially designed benefit package. These contracts shall
6 provide state employees with the most cost-effective and
7 comprehensive coverage available; however, no state or agency
8 funds shall be contributed toward the cost of any part of the
9 premium of such supplemental benefit plans.

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

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

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

22 (a) Except as provided in paragraph (e) with respect
23 to law enforcement officers, ~~correctional~~ and ~~correctional~~
24 probation officers, and firefighters, legislative
25 authorization through the appropriations act is required for
26 payment by a state agency of any part of the premium cost of
27 participation in any group insurance plan. However, the state
28 contribution for full-time employees or part-time permanent
29 employees shall continue in the respective proportions for up
30 to 6 months for any such officer or employee who has been
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1 granted an approved parental or medical leave of absence
2 without pay.

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

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

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

27 (h) State employees may participate in the state group
28 health insurance plan at the time of receiving their state
29 retirement benefits.

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

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

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

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

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

1 Insurance to administer such plan. Before entering into any
2 contract, the division shall advertise for competitive
3 proposals, and such contract shall be let upon the
4 consideration of the benefits provided in relationship to the
5 cost of such benefits. In determining which entity to contract
6 with, the division shall, at a minimum, consider: the
7 entity's previous experience and expertise in administering
8 group insurance programs of the type it proposes to
9 administer; the entity's ability to specifically perform its
10 contractual obligations in this state and other governmental
11 jurisdictions; the entity's anticipated administrative costs
12 and claims experience; the entity's capability to adequately
13 provide service coverage and sufficient number of experienced
14 and qualified personnel in the areas of claims processing,
15 recordkeeping, and underwriting, as determined by the
16 division; the entity's accessibility to state employees and
17 providers; the financial solvency of the entity, using
18 accepted business sector measures of financial performance.
19 The division may contract for medical services which will
20 improve the health or reduce medical costs for employees who
21 participate in the state group 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 (i) Beginning November 1, 1998, and for the 1998-1999
15 fiscal year only, continue to process health insurance claims
16 for the 1996 and 1997 calendar years, subject to the review
17 and approval process provided in s. 216.177. This paragraph is
18 repealed on July 1, 1999.

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20 Final decisions concerning enrollment, the existence of
21 coverage, or covered benefits under the state group ~~health~~
22 insurance program plan shall not be delegated or deemed to
23 have been delegated by the division.

24 (8) COVERAGE FOR LEGISLATIVE MEMBERS AND EMPLOYEES.--

25 (a) The Legislature may provide coverage for its
26 members and employees under all or any part of the state group
27 insurance program; may provide coverage for its members and
28 employees under a legislative group insurance program in lieu
29 of all or any part of the state group insurance program; and,
30 notwithstanding the provisions of paragraph (4)(c), may assume
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1 the cost of any group insurance coverage provided to its
2 members and employees.

3 (b) Effective July 1, 1999, any legislative member who
4 terminates his or her elected service after July 1, 1999,
5 after having vested in the state retirement system, may
6 purchase coverage in the state group health insurance plan at
7 the same premium cost as that for retirees and surviving
8 spouses. Such legislators may also elect to continue coverage
9 under the group term life insurance program prevailing for
10 current members at the premium cost in effect for that plan.

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

26 Section 3. Section 110.12315, Florida Statutes, is
27 amended to read:

28 (Substantial rewording of section. See
29 s. 110.12315, F.S., for present text.)

30 110.12315 Prescription drug program.--The state
31 employees' prescription drug program is established. This

1 program shall be administered by the Division of State Group
2 Insurance within the Department of Management Services,
3 according to the terms and conditions of the plan as
4 established by the Division of State Group Insurance and by
5 relevant provisions of the annual General Appropriations Act
6 and implementing legislation, subject to the following
7 conditions:

8 (1) The Division of State Group Insurance shall allow
9 prescriptions written by health care providers under the plan
10 to be filled by any licensed pharmacy pursuant to contractual
11 claims-processing provisions. Nothing in this section may be
12 construed as prohibiting a mail order prescription drug
13 program distinct from the service provided by retail
14 pharmacies.

15 (2) In providing for reimbursement of pharmacies for
16 prescription medicines dispensed to members of the state group
17 health insurance plan and their dependents under the state
18 employees' prescription drug program:

19 (a) Retail pharmacies participating in the program
20 must be reimbursed at a uniform rate and subject to uniform
21 conditions, according to the terms and conditions of the plan.

22 (b) There shall be a 30-day supply limit for
23 prescription card purchases and a 90-day supply limit for mail
24 order or mail order prescription drug purchases.

25 (c) The current pharmacy dispensing fee remains in
26 effect.

27 (3) The Division of State Group Insurance shall
28 establish the reimbursement schedule for prescription
29 pharmaceuticals dispensed under the program. Reimbursement
30 rates for a prescription pharmaceutical must be based on the
31 cost of the generic equivalent drug if a generic equivalent

1 exists, unless the physician prescribing the pharmaceutical
2 clearly states on the prescription that the brand name drug is
3 medically necessary or that the drug product is included on
4 the formulary of drug products that may not be interchanged as
5 provided in chapter 465, in which case reimbursement must be
6 based on the cost of the brand name drug as specified in the
7 reimbursement schedule adopted by the Division of State Group
8 Insurance.

9 (4) The Division of State Group Insurance shall
10 conduct a prescription utilization review program. In order
11 to participate in the state employees' prescription drug
12 program, retail pharmacies dispensing prescription medicines
13 to members of the state group health insurance plan or their
14 covered dependents, or to subscribers or covered dependents of
15 a health maintenance organization plan under the state group
16 insurance program, shall make their records available for this
17 review.

18 (5) The Division of State Group Insurance shall
19 implement such additional cost-saving measures and adjustments
20 as may be required to balance program funding within
21 appropriations provided, including a trial or starter dose
22 program and dispensing of long-term-maintenance medication in
23 lieu of acute therapy medication.

24 (6) Participating pharmacies must use a point-of-sale
25 device or an on-line computer system to verify a participant's
26 eligibility for coverage. The state is not liable for
27 reimbursement of a participating pharmacy for dispensing
28 prescription drugs to any person whose current eligibility for
29 coverage has not been verified by the state's contracted
30 administrator or by the Division of State Group Insurance.

31

1 Section 4. Section 110.1232, Florida Statutes, is
2 amended to read:

3 110.1232 Health insurance coverage for persons retired
4 under state-administered retirement systems before January 1,
5 1976, and for spouses.--Notwithstanding any provisions of law
6 to the contrary, the Division of State Group Insurance shall
7 provide health insurance coverage under ~~in~~ the state group
8 ~~Health insurance program Plan~~ for persons who retired before
9 ~~prior to~~ January 1, 1976, under any of the state-administered
10 retirement systems and who are not covered by social security
11 and for the spouses and surviving spouses of such retirees who
12 are also not covered by social security. Such health
13 insurance coverage shall provide the same benefits as provided
14 to other retirees who are entitled to participate under s.
15 110.123. The claims experience of this group shall be
16 commingled with the claims experience of other members covered
17 under s. 110.123.

18 Section 5. Subsection (1) of section 110.1234, Florida
19 Statutes, is amended to read:

20 110.1234 Health insurance for retirees under the
21 Florida Retirement System; Medicare supplement and fully
22 insured coverage.--

23 (1) The Division of State Group Insurance shall
24 solicit competitive bids from state-licensed insurance
25 companies to provide and administer a fully insured Medicare
26 supplement policy for all eligible retirees of a state or
27 local public employer. Such Medicare supplement policy shall
28 meet the provisions of ss. 627.671-627.675. For the purpose
29 of this subsection, "eligible retiree" means any public
30 employee who retired from a state or local public employer who
31 is covered by Medicare, Parts A and B. The division ~~department~~

1 shall authorize one company to offer the Medicare supplement
2 coverage to all eligible retirees. All premiums shall be paid
3 by the retiree.

4 Section 6. Section 110.1238, Florida Statutes, is
5 amended to read:

6 110.1238 State group health insurance plans; refunds
7 with respect to overcharges by providers.--A participant in a
8 state group health insurance plan who discovers that he or she
9 was overcharged by a health care provider shall receive a
10 refund of 50 percent of any amount recovered as a result of
11 such overcharge, up to a maximum of \$1,000 ~~per admission~~.

12 Section 7. Subsections (5), (6), and (7) of section
13 110.161, Florida Statutes, are amended to read:

14 110.161 State employees; pretax benefits program.--

15 (5) The Division of State Group Insurance shall
16 develop rules for the pretax benefits program, which shall
17 specify the benefits to be offered under the program, the
18 continuing tax-exempt status of the program, and any other
19 matters deemed necessary by the division ~~department~~ to
20 implement this section. The rules must be approved by a
21 majority vote of the Administration Commission.

22 (6) The Division of State Group Insurance is
23 authorized to administer the ~~establish a~~ pretax benefits
24 program established for all employees so that ~~whereby~~
25 employees may ~~would~~ receive benefits that ~~which~~ are not
26 includable in gross income under the Internal Revenue Code of
27 1986. The pretax benefits program: ~~shall be implemented in~~
28 ~~phases.~~

29 (a) ~~Phase one~~ Shall allow employee contributions to
30 premiums for the state group insurance ~~health~~ program
31 administered under s. 110.123 ~~and state life insurance~~ to be

1 paid on a pretax basis unless an employee elects not to
2 participate.

3 (b) ~~Phase two~~ Shall allow employees to voluntarily
4 establish expense reimbursement plans from their salaries on a
5 pretax basis to pay for qualified medical and dependent care
6 expenses, including premiums paid by employees for qualified
7 supplemental insurance.

8 (c) ~~Phase two~~ May ~~also~~ provide for the payment of such
9 premiums through a pretax payroll procedure ~~as used in phase~~
10 ~~one~~. The Administration Commission and the Division of State
11 Group Insurance are directed to take all actions necessary to
12 preserve the tax-exempt status of the program.

13 (7) The Legislature recognizes that a substantial
14 amount of the employer savings realized by the implementation
15 of a pretax benefits program will be the result of diminutions
16 in the state's employer contribution to the Federal Insurance
17 Contributions Act tax. There is hereby created the Pretax
18 Benefits Trust Fund in the Division of State Group Insurance.
19 Each agency shall transfer to the Pretax Benefits Trust Fund
20 the employer FICA contributions saved by the state as a result
21 of the implementation of the pretax benefits program
22 authorized pursuant to this section. Any moneys forfeited
23 pursuant to employees' salary reduction agreements to
24 participate in ~~phase one or phase two~~ of the program must also
25 be deposited in the Pretax Benefits Trust Fund. Moneys in the
26 Pretax Benefits Trust Fund shall be used for the pretax
27 benefits program, including its administration by the Division
28 of State Group Insurance ~~Department of Management Services~~ or
29 a third-party administrator.

30 Section 8. Paragraph (i) of subsection (2) of section
31 110.205, Florida Statutes, is amended to read:

1 110.205 Career service; exemptions.--

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

7 (i) The appointed secretaries, assistant secretaries,
8 deputy secretaries, and deputy assistant secretaries of all
9 departments; the executive directors, assistant executive
10 directors, deputy executive directors, and deputy assistant
11 executive directors of all departments; and the directors of
12 all divisions and those positions determined by the department
13 to have managerial responsibilities comparable to such
14 positions, which positions include, but are not limited to,
15 program directors, assistant program directors, district
16 administrators, deputy district administrators, the Director
17 of Central Operations Services of the Department of Children
18 Health and Family Rehabilitative Services, the assistant
19 director of the Division of State Group Insurance, and the
20 assistant director of the Division of Retirement of the
21 Department of Management Services, and the State
22 Transportation Planner, State Highway Engineer, State Public
23 Transportation Administrator, district secretaries, district
24 directors of planning and programming, production, and
25 operations, and the managers of the offices specified in s.
26 20.23(3)(d)2., of the Department of Transportation. Unless
27 otherwise fixed by law, the department shall set the salary
28 and benefits of these positions in accordance with the rules
29 of the Senior Management Service.

30 Section 9. Section 121.025, Florida Statutes, is
31 amended to read:

1 121.025 Administrator; powers and duties.--The
2 director of the Division of Retirement shall be the
3 administrator of the retirement and pension systems assigned
4 or transferred to the Division of Retirement by law and shall
5 have the authority to sign the contracts necessary to carry
6 out the duties and responsibilities assigned by law to the
7 Division of Retirement. The director and assistant director
8 shall be exempt from the Career Service System as provided
9 under s. 110.205(2)(i) of the state personnel law. In
10 addition to the 20 policymaking positions allocated to the
11 Department of Management Services under s. 110.205(2)(m), the
12 director, as agency head, may designate as being exempt from
13 the Career Service System a maximum of 10 positions determined
14 by the director to have policymaking or managerial
15 responsibilities comparable to such positions.

16 Section 10. Paragraph (a) of subsection (5) of section
17 215.94, Florida Statutes, is amended to read:

18 215.94 Designation, duties, and responsibilities of
19 functional owners.--

20 (5) The Department of Management Services shall be the
21 functional owner of the Cooperative Personnel Employment
22 Subsystem. The department shall design, implement, and
23 operate the subsystem in accordance with the provisions of ss.
24 110.116 and 215.90-215.96. The subsystem shall include, but
25 shall not be limited to, functions for:

26 (a) Maintenance of employee and position data,
27 including funding sources and percentages and salary lapse.
28 The employee data shall include, but not be limited to,
29 information to meet the payroll system requirements of the
30 Department of Banking and Finance and to meet the employee
31

1 benefit system requirements of the Division of State Group
2 ~~Employees~~ Insurance in the Department of Management Services.

3 Section 11. This act shall take effect July 1, 1999.

4
5 *****

6 SENATE SUMMARY

7 Revises various provisions relating to the State Group
8 Insurance Program. Clarifies, updates, revises, and
9 reorganizes references and provisions relating to that
10 program. Modifies the role of the director of the
11 Division of State Group Insurance and the staff of the
12 division. Provides for Career Service exemptions in the
13 division. Deletes authority to negotiate with specialty
14 psychiatric hospitals. Provides for the establishment of
15 a comprehensive package of insurance benefits which best
16 suits individual and family needs. Conforms provisions
17 relating to payment of premiums for certain employees
18 injured or killed in the line of duty to existing law.
19 Provides for the purchase of coverage in the state group
20 health insurance plan by a legislative member who
21 terminates elected service after having vested in the
22 state retirement system. Provides for the designation of
23 Senior Management Service positions. Substantially
24 revises the state employees' prescription drug program.
25 Provides that a participant in a state group health plan
26 who is overcharged by a health care provider shall
27 receive a refund of 50 percent of the overcharge up to a
28 maximum of \$1,000. (See bill for details.)
29
30
31