

By the Committee on Governmental Oversight and Productivity;
and Senator Thomas

302-1967-99

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.
29 110.1232, F.S., relating to health insurance
30 coverage for certain state retirees; conforming
31 references; amending s. 110.1234, F.S.,

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

17

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

19

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

22 20.22 Department of Management Services.--There is
23 created a Department of Management Services.

24 (5)(a) The Florida State Group Insurance Council is
25 created within the Division of State Group Insurance for the
26 purpose of providing joint and coordinated oversight of the
27 operation and administration of the state group insurance
28 program. The council shall consist of the state budget
29 director or his or her designee; an individual from the
30 private sector with an extensive health administration
31 background, appointed by the Governor; a member of the Florida

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

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

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

- 26 1. The awarding or termination of contracts.
- 27 2. The selection of a consultant or contractor or the
28 prequalification of any individual consultant or contractor.
29 However, the council may recommend to the director standards
30 and policies governing the procedure for selection and
31 prequalification of consultants and contractors.

1 3. The employment, promotion, demotion, suspension,
2 transfer, or discharge of any division personnel.

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

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

10 110.123 State group insurance program.--

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

12 (a) "Department" means the Department of Management
13 Services.

14 (b) "Division" means the Division of State Group
15 Insurance in the department.

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

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

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

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

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

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

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

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

29 (k)~~(i)~~ "State group health insurance plan" or "state
30 plan" means the state self-insured health insurance plan
31 offered to state officers and employees, retired state

1 officers and employees, and surviving spouses of deceased
2 state officers and employees pursuant to this section.

3 (l)~~(j)~~ "State group insurance program" or "programs"
4 means the package of insurance plans offered to state officers
5 and employees, retired state officers and employees, and
6 surviving spouses of deceased state officers and employees
7 pursuant to this section, including the state group health
8 insurance plan, health maintenance organization plans, and
9 other plans required or authorized by this section.

10 (m)~~(k)~~ "State officer" means any constitutional state
11 officer, any elected state officer paid by state warrant, or
12 any appointed state officer who is commissioned by the
13 Governor and who is paid by state warrant.

14 (n)~~(l)~~ "Surviving spouse" means the widow or widower
15 of a deceased state officer, full-time state employee,
16 part-time state employee, or retiree if such widow or widower
17 was covered as a dependent under the state group health
18 insurance plan or a health maintenance organization plan
19 established pursuant to this section at the time of the death
20 of the deceased officer, employee, or retiree. "Surviving
21 spouse" also means any widow or widower who is receiving or
22 eligible to receive a monthly state warrant from a state
23 retirement system as the beneficiary of a state officer,
24 full-time state employee, or retiree who died prior to July 1,
25 1979. For the purposes of this section, any such widow or
26 widower shall cease to be a surviving spouse upon his or her
27 remarriage.

28 (3) STATE GROUP INSURANCE PROGRAM.--

29 (a) The Division of State Group Insurance is created
30 within the Department of Management Services, to be headed by
31 a director who shall be appointed by the Governor and

1 confirmed by the Senate. The division shall be a separate
2 budget entity, and the director shall be its agency head for
3 all purposes.

4 1. The director and assistant director are exempt from
5 the Career Service System as provided under s. 110.205(2)(i).
6 In addition to the 20 policymaking positions allocated to the
7 Department of Management Services, under s. 110.205(2)(m), the
8 director, as agency head, may designate as being exempt from
9 the Career Service System a maximum of 5 positions determined
10 by the director to have policymaking or managerial
11 responsibilities comparable to such positions.

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

21 (e)1. Notwithstanding the provisions of chapter 287
22 and the authority of the department, for the purpose of
23 protecting the health of, and providing medical services to,
24 state employees participating in the state group insurance
25 program ~~Employees' Health Self-Insurance Plan~~, the Division of
26 State Group Insurance may contract to retain the services of
27 professional administrators for the state group insurance
28 program ~~Employees' Health Self-Insurance Plan~~. The division
29 agency shall follow good purchasing practices of state
30 procurement to the extent practicable under the circumstances.

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

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

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

18 a. A formal written protest of any decision, intended
19 decision, or other action subject to protest shall be filed
20 within 72 hours after receipt of notice of the decision,
21 intended decision, or other action.

22 b. As an alternative to any provision of s. 120.57(3),
23 the division may proceed with the bid selection or contract
24 award process if the director of the division ~~department~~ sets
25 forth, in writing, particular facts and circumstances which
26 demonstrate the necessity of continuing the procurement
27 process or the contract award process in order to avoid a
28 substantial disruption to the provision of any scheduled
29 insurance services.

30 (h)1. A person eligible to participate in the state
31 group ~~health~~ insurance program plan may be authorized by rules

1 adopted by the division, in lieu of participating in the state
2 group health insurance plan, to exercise an option to elect
3 membership in a health maintenance organization plan which is
4 under contract with the state in accordance with criteria
5 established by this section and by said rules. The offer of
6 optional membership in a health maintenance organization plan
7 permitted by this paragraph may be limited or conditioned by
8 rule as may be necessary to meet the requirements of state and
9 federal laws.

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

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

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1 b. The division may establish ~~A uniform schedule for~~
2 ~~deductibles, and copayments, or coinsurance schedules may be~~
3 ~~established for all participating HMO plans HMOs.~~

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

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

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

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

31

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

9 3.4. In addition to contracting pursuant to
10 subparagraph 2., the division shall enter into contract with
11 any HMO to participate in the state group insurance program
12 which:

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

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

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

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

26 e. Meets the minimum surplus requirements of s.
27 641.225.

28
29 The division is authorized to contract with HMOs that meet the
30 requirements of sub-subparagraphs a. through d. prior to the
31 open enrollment period for state employees. The division is

1 not required to renew the contract with the HMOs as set forth
2 in this paragraph more than twice. Thereafter, the HMOs shall
3 be eligible to participate in the state group insurance
4 program only through the request for proposal process
5 described in subparagraph 2.

6 ~~4.5.~~ All enrollees in the state group health insurance
7 plan or any health maintenance organization plan shall have
8 the option of changing to any other health plan which is
9 offered by the state within any open enrollment period
10 designated by the division. Open enrollment shall be held at
11 least once each calendar year.

12 ~~5.6.~~ Any HMO participating in the state group
13 insurance program shall submit health care utilization and
14 cost data to the division, in such form and in such manner as
15 the division shall require, as a condition of participating in
16 the program. The division shall enter into negotiations with
17 its contracting HMOs to determine the nature and scope of the
18 data submission and the final requirements, format, penalties
19 associated with noncompliance, and timetables for submission.
20 These determinations shall be adopted by rule. ~~Any HMO~~
21 ~~participating in the state group insurance program shall, upon~~
22 ~~the request of the division, submit to the division~~
23 ~~standardized data for the purpose of comparison of the~~
24 ~~appropriateness, quality, and efficiency of care provided by~~
25 ~~the HMO. Such standardized data shall include: membership~~
26 ~~profiles; inpatient and outpatient utilization by age and sex;~~
27 ~~type of service, provider type, and facility; and emergency~~
28 ~~care experience. Requirements and timetables for submission of~~
29 ~~such standardized data and such other data as the division~~
30 ~~deems necessary to evaluate the performance of participating~~
31 ~~HMOs shall be adopted by rule.~~

1 6.7. The division may establish and direct, in
2 consultation with the Department of Management Services with
3 respect to collective bargaining issues, a comprehensive
4 package of insurance benefits that may include, supplemental
5 health and life coverage, dental care, long-term care, vision
6 care, and other benefits it determines necessary to enable
7 state employees to select from among benefit options that best
8 suit their individual and family needs.~~shall, after~~
9 ~~consultation with representatives from each of the unions~~
10 ~~representing state and university employees, establish a~~
11 ~~comprehensive package of insurance benefits including, but not~~
12 ~~limited to, supplemental health and life coverage, dental~~
13 ~~care, long-term care, and vision care to allow state employees~~
14 ~~the option to choose the benefit plans which best suit their~~
15 ~~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,

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

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

30 (e) No state contribution for the cost of any part of
31 the premium shall be made for retirees or surviving spouses

1 for any type of coverage under the state group insurance
2 program. However, any state agency that employs a full-time
3 law enforcement officer, correctional officer, or correctional
4 probation officer who is killed or suffers catastrophic injury
5 in the line of duty as provided in s. 112.19, or a full-time
6 firefighter who is killed or suffers catastrophic injury in
7 the line of duty as provided in s. 112.191, on or after July
8 1, 1980, as a result of an act of violence inflicted by
9 another person while the officer is engaged in the performance
10 of law enforcement duties or as a result of an assault against
11 the officer under riot conditions shall pay the entire premium
12 of the state group health insurance plan for the employee's
13 surviving spouse until remarried, and for each dependent child
14 of the employee, subject to the conditions and limitations set
15 forth in s. 112.19 or s. 112.191, as applicable until the
16 child reaches the age of majority or until the end of the
17 calendar year in which the child reaches the age of 25 if:
18 1. ~~At the time of the employee's death, the child is~~
19 ~~dependent upon the employee for support; and~~
20 2. ~~The surviving child continues to be a dependent for~~
21 ~~support, or the surviving child is a full-time or part-time~~
22 ~~student and is dependent for support.~~
23 (h) State employees may participate in the state group
24 health insurance plan at the time of receiving their state
25 retirement benefits.
26 (5) DIVISION OF STATE GROUP INSURANCE; POWERS AND
27 DUTIES.--The division is responsible for the administration of
28 the state group insurance program. The division shall
29 initiate and supervise the program as established by this
30 section and shall adopt such rules as are necessary to perform
31

1 its responsibilities. To implement this program, the division
2 shall, with prior approval by the Legislature:

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

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

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

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

19 (d) With respect to the state group health insurance
20 plan, be authorized to require copayments with respect to all
21 providers under the plan.

22 (e) Have authority to establish a voluntary program
23 for comprehensive health maintenance, which may include health
24 educational components and health appraisals.

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

31

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

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

12 (i) Beginning November 1, 1998, and for the 1998-1999
13 fiscal year only, continue to process health insurance claims
14 for the 1996 and 1997 calendar years, subject to the review
15 and approval process provided in s. 216.177. This paragraph is
16 repealed on July 1, 1999.

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

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

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

31

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

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

24 Section 3. Section 110.1232, Florida Statutes, is
25 amended to read:

26 110.1232 Health insurance coverage for persons retired
27 under state-administered retirement systems before January 1,
28 1976, and for spouses.--Notwithstanding any provisions of law
29 to the contrary, the Division of State Group Insurance shall
30 provide health insurance coverage under ~~in~~ the state group
31 ~~Health insurance program Plan~~ for persons who retired before

1 ~~prior to~~ January 1, 1976, under any of the state-administered
2 retirement systems and who are not covered by social security
3 and for the spouses and surviving spouses of such retirees who
4 are also not covered by social security. Such health
5 insurance coverage shall provide the same benefits as provided
6 to other retirees who are entitled to participate under s.
7 110.123. The claims experience of this group shall be
8 commingled with the claims experience of other members covered
9 under s. 110.123.

10 Section 4. Subsection (1) of section 110.1234, Florida
11 Statutes, is amended to read:

12 110.1234 Health insurance for retirees under the
13 Florida Retirement System; Medicare supplement and fully
14 insured coverage.--

15 (1) The Division of State Group Insurance shall
16 solicit competitive bids from state-licensed insurance
17 companies to provide and administer a fully insured Medicare
18 supplement policy for all eligible retirees of a state or
19 local public employer. Such Medicare supplement policy shall
20 meet the provisions of ss. 627.671-627.675. For the purpose
21 of this subsection, "eligible retiree" means any public
22 employee who retired from a state or local public employer who
23 is covered by Medicare, Parts A and B. The division ~~department~~
24 shall authorize one company to offer the Medicare supplement
25 coverage to all eligible retirees. All premiums shall be paid
26 by the retiree.

27 Section 5. Section 110.1238, Florida Statutes, is
28 amended to read:

29 110.1238 State group health insurance plans; refunds
30 with respect to overcharges by providers.--A participant in a
31 state group health insurance plan who discovers that he or she

1 was overcharged by a health care provider shall receive a
2 refund of 50 percent of any amount recovered as a result of
3 such overcharge, up to a maximum of \$1,000 ~~per admission~~.

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

6 110.161 State employees; pretax benefits program.--

7 (5) The Division of State Group Insurance shall
8 develop rules for the pretax benefits program, which shall
9 specify the benefits to be offered under the program, the
10 continuing tax-exempt status of the program, and any other
11 matters deemed necessary by the division ~~department~~ to
12 implement this section. The rules must be approved by a
13 majority vote of the Administration Commission.

14 (6) The Division of State Group Insurance is
15 authorized to administer the ~~establish a~~ pretax benefits
16 program established for all employees so that ~~whereby~~
17 employees may ~~would~~ receive benefits that ~~which~~ are not
18 includable in gross income under the Internal Revenue Code of
19 1986. The pretax benefits program: ~~shall be implemented in~~
20 ~~phases.~~

21 (a) ~~Phase one~~ Shall allow employee contributions to
22 premiums for the state group insurance ~~health~~ program
23 administered under s. 110.123 ~~and state life insurance~~ to be
24 paid on a pretax basis unless an employee elects not to
25 participate.

26 (b) ~~Phase two~~ Shall allow employees to voluntarily
27 establish expense reimbursement plans from their salaries on a
28 pretax basis to pay for qualified medical and dependent care
29 expenses, including premiums paid by employees for qualified
30 supplemental insurance.

31

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

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

23 Section 7. Paragraph (i) of subsection (2) of section
24 110.205, Florida Statutes, is amended to read:

25 110.205 Career service; exemptions.--

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

31

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

24 Section 8. Section 121.025, Florida Statutes, is
25 amended to read:

26 121.025 Administrator; powers and duties.--The
27 director of the Division of Retirement shall be the
28 administrator of the retirement and pension systems assigned
29 or transferred to the Division of Retirement by law and shall
30 have the authority to sign the contracts necessary to carry
31 out the duties and responsibilities assigned by law to the

1 Division of Retirement. The director and assistant director
2 shall be exempt from the Career Service System as provided
3 under s. 110.205(2)(i) of the state personnel law. In
4 addition to the 20 policymaking positions allocated to the
5 Department of Management Services under s. 110.205(2)(m), the
6 director, as agency head, may designate as being exempt from
7 the Career Service System a maximum of 5 positions determined
8 by the director to have policymaking or managerial
9 responsibilities comparable to such positions.

10 Section 9. Paragraph (a) of subsection (5) of section
11 215.94, Florida Statutes, is amended to read:

12 215.94 Designation, duties, and responsibilities of
13 functional owners.--

14 (5) The Department of Management Services shall be the
15 functional owner of the Cooperative Personnel Employment
16 Subsystem. The department shall design, implement, and
17 operate the subsystem in accordance with the provisions of ss.
18 110.116 and 215.90-215.96. The subsystem shall include, but
19 shall not be limited to, functions for:

20 (a) Maintenance of employee and position data,
21 including funding sources and percentages and salary lapse.
22 The employee data shall include, but not be limited to,
23 information to meet the payroll system requirements of the
24 Department of Banking and Finance and to meet the employee
25 benefit system requirements of the Division of State Group
26 ~~Employees~~ Insurance in the Department of Management Services.

27 Section 10. This act shall take effect July 1, 1999.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 2224

The Committee Substitute removes provisions transferring the establishment of prescription drug co-payments from general law to the appropriations act. It also reduces from 10 to 5 the number of additional exempt positions which can be designated by the Division of State Group Insurance and the Division of Retirement each.