

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2280

SPONSOR: Governmental Oversight and Productivity Committee and Senator Campbell

SUBJECT: Department of Management Services

DATE: April 6, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Staff	Wilson	GO	Favorable/CS
2.	_____	_____	FP	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The committee substitute reorganizes the Department of Management Services (DMS) transferring functions of the Division of State Group Insurance and the Division of Retirement to the department and abolishes the Florida State Group Insurance Council.

This act shall take effect July 1, 1999.

This bill substantially amends sections: 20.22, 110.1227, 110.123, 110.12315, 110.1232, 110.1234, 110.161, 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.021, 121.025, 121.027, 121.031, 121.051, 121.0511, 121.0515, 121.052, 121.055, 121.071, 121.081, 121.091, 121.111, 121.133, 121.135, 121.136, 121.1815, 121.1905, 121.192, 121.193, 121.122, 121.23, 121.24, 121.30, 121.35, 121.40, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23, 185.35, 185.37, 185.50, 189.412, 215.20, 215.28, 215.50, 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051, 633.382, and 650.02, Florida Statutes.

## II. Present Situation:

The Legislature enacted the "Reorganization Act of 1969," following the 1968 revision to the State Constitution. The act clearly delineated the powers of the different branches of government. The power of the legislative branch was defined as the broad power of determining policy and programs and reviewing performance. The executive branch was delegated the responsibility for execution of policy and programs and management.

As a result of the reorganization, the Department of Administration (DOA) was established and budget, state planning, personnel, and retirement functions previously scattered among various ex-officio boards and agencies, most of which were under the Cabinet, were consolidated. The Governor and Cabinet were designated to head the newly-created Department of General Services (DGS). The following services were consolidated and centralized in DGS for all state agencies: purchasing and contract negotiations; electronic data processing; the structure and sale of bond issues; building design, construction, and maintenance; maintenance of a state motor and executive aircraft pool; federal and state surplus property management; and the design and maintenance of a state communications network. Building construction and maintenance, purchasing, and surplus property functions all existed under Cabinet boards prior to the reorganization. The motor pool and communication functions were newly established as a result of the reorganization.

In 1992, the DOA was abolished and its duties were distributed among other agencies. DGS was renamed the Department of Management Services (DMS). The redistribution is described below along with the principal components of the current structure:

	<b>From</b>	<b>To</b>
Division of Retirement	DOA	DMS
Personnel Management	DOA	DMS
Administrative Hearings	DOA	DMS
State Employees' Insurance	DOA	DMS
Labor Relations	DOA	DMS
Human Resource Development	DOA	DMS
State Retirement Commission	DOA	DMS
Commission on Human Relations	DOA	Governors Office
Bond Finance	DOA	State Board of Administration
Executive Clemency	DOA	Florida Parole Commission

DMS now houses twelve activity/program areas. Seven of these activities involve independent entities which include: State Employee Leasing, Division of Administrative Hearings, Division of Retirement, Division of State Group Insurance, Florida Commission on Human Relations, Correctional Privatization Commission, State Technology Office, and SMART Schools Clearinghouse. The DMS exercises direct jurisdiction over the other five activity/program areas which include: Facilities, Technology, Support, Workforce and Administration.

**Workforce Program**

DMS maintains centralized authority for agency oversight and training of agency personnel programs, their respective human resource managers, and the state personnel system. Recruitment

and selection, performance appraisal, and employee discipline and training are decentralized functions. Those activities centralized in the state personnel system within the Workforce Program are the maintenance of the employee pay classification system, collective bargaining, contract negotiations, and promulgation and interpretation of rules. The program is designed to prevent inefficient and inconsistent agency duplication of personnel actions, and protect taxpayers from the effects of potential employment law liability resulting from improper or inconsistent application of human resource management policy.

### **Division of Retirement**

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

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

### **Division of State Group Insurance**

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

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

### III. Effect of Proposed Changes:

**Section 1.** Section 20.22, F.S., is amended transferring functions of the Division of State Group Insurance and the Division of Retirement to DMS. The Florida State Group Insurance Council is abolished.

**Section 2.** Amends s. 110.1227, F.S., to transfer agency authority now exercised by the Division of State Group Insurance to the DMS

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

**Sections 5 - 7.** Amends ss. 110.1232, 110.1234, and 110.161, F.S., to provide nomenclature transfer of authority from the Division of State Group Insurance to the DMS.

**Sections 8 - 31.** Amends ss. 112.05, 112.3173, 112.352, 112.354, 112.356, 112.358, 112.361, 112.362, 112.363, 112.63, 112.64, 112.658, 112.665, 121.021, 121.025, 121.027, 121.031, 121.051 (1998 Supp.), 121.0511, 121.0515 (1998 Supp.), 121.052 (1998 Supp.), 121.055 (1998 Supp.), 121.071 (1998 Supp.), and 121.081 (1998 Supp.), F.S., to change nomenclature. Agency authority is transferred from the Division of Retirement to the DMS.

**Section 32.** Amends s. 121.091, F.S. (1998 Supp.), to change nomenclature. Authority exercised by the Division of State Group Insurance is transferred to the DMS in matters authorizing life insurance premium deductions from members' monthly retirement benefits.

**Sections 33 - 38.** Amends ss. 121.111, 121.133, F.S. (1998 Supp.), 121.135, 121.136, and 121.1815, F.S., to change nomenclature. Authority exercised by the Division of Retirement is transferred to the DMS.

**Section 39.** Amends s. 121.1905, F.S., creating the Retirement Section within the Employee Benefits Program in DMS.

**Section 40.** Amends s. 121.192, F.S., to change nomenclature. Authority exercised in the name of the Division of Retirement is transferred to the DMS and the secretary is substituted for the division director in matters authorizing employment of an actuary for valuation and consulting services.

**Sections 41 - 85.** Amends ss. 121.193 (1998 Supp.), 121.122, 121.23, 121.24, 121.30 (1998 Supp.), 121.35, (1998 Supp.), 121.40, 122.02, 122.03, 122.05, 122.06, 122.07, 122.08, 122.10, 122.12, 122.13, 122.15, 122.16, 122.23, 122.30, 122.34, 122.351, 175.032, 175.111, 175.121, 175.1215, 175.261, 175.341 (1998 Supp.), 175.351, 175.361, 175.401, 185.02, 185.09, 185.10, 185.105, 185.221, 185.23, 185.35, 185.37, 185.50, 189.412, 215.20 (1998 Supp.),

215.28, 215.50 (1998 Supp.), to change nomenclature. Responsibility for the following matters is transferred from the Division of Retirement (division) to the DMS:

- \* the auditing of personnel and payroll records of participating agencies;
- \* the State Retirement Commission;
- \* adopted rules of procedure for reviewing applications for disability retirement;
- \* legal services and administrative support for the State Retirement Commission;
- \* adoption of rules necessary to qualify under the provisions of the Internal Revenue Code;
- \* the Optional Retirement Program and administration of it;
- \* the Institute of Food and Agricultural Sciences;
- \* the definition of "State and county officers and employee" for retirement purposes;
- \* participant contributions for prior service credit; conditions and eligibility;
- \* contribution deductions for Legislator services;
- \* contribution deductions for Legislative employee services;
- \* seasonal state employment and time limited election to receive retirement credit;
- \* state and county officers and employee classifications and retirement eligibility;
- \* officer and employee elections for retirement contribution refunds and separation from service;
- \* officer and employee beneficiary designations and contribution refunds;
- \* adoption of rules for the administration of the state and county officers and employee retirement law;
- \* the deduction of premiums for group hospitalization insurance from the retirement benefit paid to a member;
- \* employment after retirement; reemployment limitation period;
- \* nomenclature substitutions in the definition section;
- \* appropriations from the intangible tax fund of the state;
- \* special retirement provisions for high hazard members;
- \* calculation of local agency credit for providing matching retirement and social security benefit contributions to employees;
- \* nomenclature substitutions in the definition section;
- \* property insurance premiums reporting and disclosure requirements; excise taxes imposed by municipalities and special fire control districts;
- \* accounting for moneys in the Premium Tax Trust Fund and pension plan oversight;
- \* administration of Police and Firefighters' Premium Tax Trust Fund;
- \* the firefighters' pension trust funds and the submission of actuarial reports;
- \* overseeing and monitoring the actuarial soundness of firefighter's pension plans; rule making authority;
- \* municipalities and special fire control districts having independent pension plans for firefighters; pension fund standards and criteria for participation in excise tax fund distributions;
- \* discontinued funding by municipality or special fire control district pension plans and procedures for dissolution and distribution;
- \* the firefighters' retiree health insurance subsidy trust fund and the submission of actuarial reports;
- \* nomenclature substitutions in the definition section;
- \* casualty insurance premiums reporting and disclosure requirements; excise taxes imposed by municipalities;

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

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

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

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

**Sections 87 - 112.** Amends ss. 238.01, 238.02, 238.03, 238.05, 238.07, 238.08, 238.09, 238.10, 238.11, 238.12, 238.14, 238.15, 238.171, 238.181, 238.32, 240.3195, 250.22, 321.17, 321.19, 321.191, 321.202, 321.203, 321.2205, 413.051 (1998 Supp.), 633.382, and 650.02, F.S., to change nomenclature. Responsibility for the following matters is transferred from the Division of Retirement (division) to the DMS:

- \* nomenclature substitutions in the definition section;
- \* an established retirement system for teachers of the state and management of it;
- \* administering the Teachers' Retirement System and the appropriate adoption of rules;
- \* membership in the Teachers' Retirement System;
- \* determining disability benefits, regular retirement benefits, and survivor benefits for the teachers' retirement system;
- \* the selection of a retirement benefit option by a member of the Teachers' Retirement System;
- \* the function and purpose of the Annuity Savings Trust Fund, the Pension Accumulation Trust Fund, the Expense Trust Fund, and the Survivors' Benefit Trust Fund within the Teacher's Retirement System;
- \* the treatment of interest and dividends earned, within each trust fund, from investments;
- \* the collection of contributions from members of the Teachers' Retirement System;
- \* the duty of the employer to keep and furnish records regarding member contributions to the retirement system;
- \* falsification of retirement records and attempt to defraud the Teachers' Retirement System;
- \* the exemption of fund assets from taxation, execution, and assignment;
- \* monthly allowances for teachers who become incapacitated and were never eligible to participate in the Teachers' Retirement System;
- \* the conditions and limitations for teachers seeking reemployment after having already retired;
- \* service credit disputes;
- \* the State Community College System Optional Retirement Program;
- \* administering and computing time of service of an enlisted person in the Florida National Guard for retirement purposes;

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

**Section 112.** Authorizes each department to conduct a survey of each board, commission, or other entity under its jurisdiction and provide a report to the DMS in an electronic format determining whether each entity should continue to exist or be abolished. In turn, DMS is required to submit all findings to the Governor and the Legislature by December 1, 1999.

**Section 113.** The act takes effect July 1, 1999.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

##### A. Tax/Fee Issues:

None.

##### B. Private Sector Impact:

None.



C. Government Sector Impact:

A review conducted by the Office of Program Policy Analysis and Government Accountability in 1995<sup>1</sup>, concluded that reorganization proposals in state government should focus on both the short and long term consequences of the planning process, including feasibility studies that specifically address the following issues:

Objective	Strategy
Long - Term Savings	<ul style="list-style-type: none"> <li>* Identify specific functions and/or services which more than one entity or organization serve and determine the potential cost savings associated with consolidation.</li> <li>* Address the elimination of specific administrative positions and other staff reductions and identify the cost saving.</li> </ul>
Program Improvement	<ul style="list-style-type: none"> <li>* Address how the reorganization will affect the delivery of services to the public or other state agencies.</li> <li>* Identify those functions or activities that will be statutorily eliminated.</li> </ul>
Management Policy	<ul style="list-style-type: none"> <li>* Address whether a consistent mission emerges out of the consolidation of entities and functions.</li> <li>* Address whether the span of management control is too broad so as not to allow the necessary visibility and accountability.</li> <li>* Address whether existing management has the necessary skills to manage the reorganization.</li> </ul>
Short-Term Costs/Savings	<ul style="list-style-type: none"> <li>* Address costs associated with moving and other ancillary conditions regarding name changes and public awareness.</li> <li>* Address costs associated with renegotiating state and private lease arrangements.</li> <li>* Identify costs regarding updating records and information management systems.</li> <li>* Anticipate disruptions associated with downtime and the potential effect of delaying projects, such as Y2K, critical to the mission of the organization .</li> </ul>
Legal Requirements	<ul style="list-style-type: none"> <li>* Address whether the reorganization is consistent with the constitutional limits regarding the number of executive agencies.</li> <li>* Address whether the new organization will be organized along functional or program lines as required by Ch. 20, F.S.</li> <li>* Address whether the reorganization will meet federal requirements if applicable.</li> </ul>

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<sup>1</sup> Review of the Impact of the Creation of the Department of Management Services, Report No. 94-30, February 22, 1995.

Objective	Strategy
Successful Implementation	<ul style="list-style-type: none"> <li>* Identify the appropriate vehicle or methodology for time line completion of critical tasks.</li> <li>* Address whether the pre-implementation is adequate.</li> <li>* Identify those individuals responsible for supervising the project and the project teams responsible for implementing the various critical tasks along the implementation time line.</li> </ul>

The expansion of the FRS member base has resulted in an increased demand for service, as well as an increased demand for different services. Currently, the Legislature is reviewing many alternative retirement options and programs for FRS members, with the expectation that the administrative burden will be borne by the division. The division now serves some 170,000 retired employees and 600,000 active employees, 75 percent of which are local government employees.

The FRS derives its funding solely from prefunded payroll contributions of participating employers on behalf of their employees. Unlike most state programs the division: does not compete for General Revenue funding for its operations; exists in perpetuity for its members and participants; is not an integral part of other state programs; and is constitutionally required to be funded on a sound actuarial basis, regardless of the state of the overall economy. The divisions' fiduciary responsibility extends from the ensuring of actuarially sound benefits<sup>2</sup> and the proper administration and accounting of each state and local retirement plan to the servicing of its members with accurate, timely information for retirement planning.

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

**Workforce Program:**

Approximately 90 percent of the Workforce Program appropriation is trust funded with revenues derived from a \$59 charge per state agency employee. The actual cost of servicing for FY 1996-97 was \$79.35 per FTE including all administrative costs. The state personnel system is the largest of the state's 6 personnel systems servicing 124,657 employees.

Although 93 percent of agency personnel officers stated that elimination of the program would adversely affect their agencies' personnel customer services. The OPPAGA Report No. 98-01,

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<sup>2</sup> See Art. X, s. 14, State Constitution and s. 112.61, F.S.

reported that the workforce program failed to adequately answer customer questions and provide technical assistance due to one-third of the program's experienced subject-matter experts leaving staff since 1985; solicit agency's input regarding the redesign of the classification and compensation system; and solicit input from future users regarding the design of HR Direct, an Internet-based human resource management tool.

OPPAGA critiqued other problem areas regarding the program's inability to effectively monitor state agency personnel offices and deficiencies relating to strategic plans which define long-range human resource goals and objectives. The report concluded that although the program is necessary and has been efficient in using its resources, it has failed in fulfilling its human resource management responsibilities.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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