

**STORAGE NAME:** h0895.go

**DATE:** March 3, 1999

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

**BILL #:** HB 895

**RELATING TO:** State Agencies/OPS/Health Insurance

**SPONSOR(S):** Representative Turnbull and others

**COMPANION BILL(S):** SB 1050 (identical)

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

- (1) GOVERNMENTAL OPERATIONS
  - (2) GENERAL APPROPRIATIONS
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

House bill 895 adds a subsection to s. 110.131, F.S., which deals with other-personal-services (OPS) positions and persons working in OPS positions.

Currently, persons applying for OPS positions must, by statute, be provided **written materials** explaining the conditions (including limitations of benefits) related to their employment in this class. Employment in such OPS positions clearly provide limitations on such employment elements as the number of hours which may be worked in certain periods of time, and a lack of entitlement to such benefits as paid annual and sick leave, and Florida Retirement System retirement benefits.

This bill requires that persons who have been employed in an OPS position for at least 12 months in any 18 month period, be furnished the same health insurance benefits as furnished to regular employees of that agency.

This bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of all OPS positions for the purpose of determining which of those positions are needed for the performance of a "critical state service", and which are truly temporary in nature.

This bill further requires OPPAGA to submit a preliminary report of its findings to the President of the Senate, and the Speaker of the House of Representatives by December 31, 1999, with the final report to be delivered by February 1, 2000.

The fiscal impact on state government would be significant.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Employees hired as OPS employees are generally limited to 1,040 working hours within any 12 month period. Extensions of the time of employment in such positions beyond the normal 1,040 hours (within an agency), may be made with the approval of the head of the agency or a designee, and in accordance with criteria established by the Department of Management Services (DMS).

According to the Department of Banking & Finance, the number of OPS workers varies greatly from month to month, but as of the end of February, 1999, there were approximately 46,380 workers in the OPS classification. The average number of such workers was approximately 43,900 per month for the year ended February 28, 1999.

Most OPS workers are found in the State University System (SUS), with over 37,100. Of that number, almost 25,000 are students. The remaining approximately 12,000 workers are in other classifications, or in mixed classifications.

In agencies such as Children and Family Services, many of the OPS workers are agency clients employed as part of their rehabilitation.

There are several exceptions to the hours-of-employment limitation, including exceptions for positions filled by:

board members;

consultants;

seasonal employees;

institutional clients employed as part of their rehabilitation;

bona fide, degree-seeking students in secondary or postsecondary educational programs;

employees of the Board of Regents, including employees of the State University System;

employees of the Board of Trustees of the Florida School for the Deaf and the Blind, and;

employees of the Division of Blind Services who are employed in the Library for the Blind and Physically Handicapped.

With respect to all but one of the classes of workers which are exempt from the hours-of-employment limitation, employment records must be maintained on OPS employees. The Board of Regents, pursuant to ch. 98-65, L.O.F., is now exempt from the record keeping and reporting requirements found in s. 110.131(6), F.S.

Applicants are required by law to be fully informed about employment conditions, rate(s) of pay, benefits, frequency and duration of OPS employment, along with the criteria for extensions of employment. State law specifically requires agencies to provide a written copy of such material (prepared by DMS), to each of its applicants for such OPS employment at the time of their interview, or actual employment, whichever occurs sooner.

There has been no special effort to establish, with any degree of certainty, the demography of workers in OPS positions, even though some information is provided to DMS, and/or is retained by employing agencies.

Moreover, while the state has engaged in a study into compensation and retirement options for career service employees, there has not been a similar review of possible OPS compensation, retirement, and benefit packages.

The current compensation package cost of OPS positions is certainly greater than just the Social Security Tax which is matched by the state on a dollar-for-dollar basis with the Social Security Tax withheld from OPS employees' pay. These hidden costs include, at minimum, OPS employee's pro rata share of Unemployment Compensation payments and Workers' Compensation payments made to OPS employees.

**B. EFFECT OF PROPOSED CHANGES:**

This bill adds a subsection to s. 110.131, F.S., which deals with OPS positions and persons working in OPS positions.

**Section 1:** requires persons who have been employed in an OPS position for at least 12 months (in any 18 month period), to be furnished the same health insurance benefits as regular employees of that agency. The Department of State Group Insurance believes allowing OPS employees to participate in the state employees' group health insurance program would make the state non-compliant with section 125 of the Internal Revenue Code (IRC), and other federal and state regulations (s. 110.123, F.S.).

**Section 2:** requires OPPAGA to conduct a study of all OPS positions for the purpose of determining which of those positions are needed for the performance of a "critical state service", and which are truly temporary in nature. It further requires OPPAGA to submit a preliminary report of its findings to the President of the Senate and the Speaker of the House of Representatives by December 31, 1999, followed by a final report by February 1, 2000.

**Section 3:** provides an effective date of upon becoming a law.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

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

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

No.

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

Yes. This bill calls for health insurance coverage for thousands of additional workers. The administration of the program, and the operational requirements necessary to provide the required health care associated with the insurance coverage would involve significant responsibilities, obligations and work for governmental organizations, insurance companies and medical service providers.

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

Yes. This bill provides insurance coverage to certain employees in OPS positions who do not currently qualify for such coverage.

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

Not Applicable.

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not directly. However, the cost of the program will be borne by taxes. Since the related costs will be new, it is conceivable that the ultimate result would impact revenue requirements.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

No.

4. Individual Freedom:

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

No.

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

No.

5. Family Empowerment:

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

This bill only provides services to families (including children) indirectly, and only for the families of certain persons employed in OPS positions.

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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

This bill only provides services to families (including children) indirectly, and only for the families of certain persons employed in OPS positions.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 110.131, F.S.

E. SECTION-BY-SECTION ANALYSIS:

See IIB., EFFECT OF PROPOSED CHANGES.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unknown. The non-recurring effects should be fairly small, inasmuch as the state already administers the health insurance program through the Division of State Group Insurance (DSGI).

2. Recurring Effects:

It is not possible to accurately determine the fiscal impact of adding health insurance coverage for certain persons employed in OPS positions, as we do not have sufficient data concerning which employees are, or will be employed in any 12 months of a rolling 18 month period. However, DSGI, which had to make a number of assumptions, including the number of individual and family contracts which will be involved, has made an estimate.

Assuming 11,766 family contracts (at a cost to the state of \$362.60 per month each), and 6,910 individual contracts (at a cost to the state of \$177.32 per month each), **the annual cost to the state for the fiscal year 2000-2001 would be \$5,491,633.**

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See IIIA3, above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The actual fiscal impact on the private sector is unknown, but it would certainly include the medical premiums, and other compensation attendant with medical care.

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

None.

D. FISCAL COMMENTS:

Estimates of the annual fiscal impact vary from approximately \$5.5 million, to much larger amounts, depending on the approach used. It is more likely that the impact would be in the \$5 to \$10 million range than some of the higher estimates (which ranged as high as over \$50 million).

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

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

V. COMMENTS:

Proponents of this bill say they want to ensure that OPS workers are not employed in the same positions for extraordinarily long periods of time.

“Study” proponents believe that developing as much information as possible relative to workers filling OPS positions, as well as the positions themselves, will arm the Legislature with the tools necessary to incorporate OPS compensation and benefits into an overall evaluation of state employee compensation and benefits.

With regard to the provision that OPS employees participate in the state group insurance program, the DSGI believes that in its present form, this bill would be non-compliant with section 125 of the Internal Revenue Code (IRC), and other federal and state regulations.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

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Russell J. Cyphers, Jr.

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Jimmy O. Helms