

**STORAGE NAME:** h0195s1.in

**DATE:** February 11, 2000

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
INSURANCE  
ANALYSIS**

**BILL #:** CS/HB 195

**RELATING TO:** Drug-free Workplaces

**SPONSOR(S):** Committee on Governmental Operations and Representative Suarez

**TIED BILL(S):**

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

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
  - (2) INSURANCE
  - (3) BUSINESS REGULATION & CONSUMER AFFAIRS
  - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (5)
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**I. SUMMARY:**

Currently, employers are encouraged, but not required, to adopt drug-free workplace programs.

The committee substitute amends s. 440.102, F.S., to require contractors working on state construction contracts to implement a drug-free workplace.

The cost to the private sector would be the contractors' expense in implementing a drug-free workplace when working on state construction contracts. However, employers implementing a drug-free workplace program may qualify for a five percent reduction in their workers' compensation insurance premiums.

The committee substitute does not appear to have a fiscal impact on state or local governments.

The committee substitute has an effective date of October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The committee substitute does not support less government because it creates new responsibilities and obligations for the agencies involved in maintaining the drug-free workplace program requirements and the individual contractors implementing a drug-free workplace program.

The committee substitute does not support individual freedom because it decreases the allowable options of construction contractors to conduct their own affairs by requiring the contractors to implement a drug-free workplace.

B. PRESENT SITUATION:

**Drug-Free Workplace Requirements**

Section 112.0455, F.S., contains the Drug-Free Workplace Act, which is applicable to state government employers. This act encourages (but does not require) state employers to implement drug-free workplace programs in order to maintain a safe and healthy workforce.

Similar to the act applicable to state employers, s. 440.102, F.S., establishes the parameters for drug-free workplace programs for employers (state and private) required to provide workers' compensation coverage. Employers are not required to implement a "drug-free workplace" program under s. 440.102, F.S., but should they choose to do so they are granted a 5 percent credit on their workers' compensation premiums.<sup>1</sup>

Employers implementing a drug-free workplace program under s, 440.102, F.S., must provide written notice to all employees and job applicants containing information relating to:

- the employer's policy on drug use,
- the types of drug testing an employee or job applicant may be required to submit to,
- the consequences of positive drug tests,
- common medications which may alter a drug test, and
- confidentiality.

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<sup>1</sup> See s. 627.0915, F.S.

In addition employers must conduct drug testing in certain circumstances, including first-time job applicants, upon reasonable suspicion; and as a part of routine fitness-for-duty examinations.

### **Workers' Compensation Coverage**

Florida law requires the following employers to secure workers' compensation coverage for their employees:

- employers in the construction industry with one or more employees; and
- non-construction employers with four or more employees.<sup>2</sup>

#### **C. EFFECT OF PROPOSED CHANGES:**

Building construction contractors and electrical and alarm system contractors, as defined in Part I or Part II of Chapter 489, F.S., performing construction work pursuant to certain state contracts, would be required to implement a drug-free workplace program. This requirement would specifically relate to state contracts where construction work is performed on public school system facilities, public property, and publicly-owned buildings, or state correctional system facilities.

#### **D. SECTION-BY-SECTION ANALYSIS:**

This section need be completed only in the discretion of the Committee.

### **III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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<sup>2</sup> Section 440.02(16)(b)2., F.S.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Those construction contractors doing construction work under state contract which have not implemented a drug-free workplace program would incur additional costs if they chose to continue performing work under state contract. Those that do not implement a drug-free workplace program would no longer be able to perform construction work under state contract. The cost to implement a drug-free workplace includes administrative costs, such as policy determination, notification and application, and the cost to administer drug tests.

The direct private sector benefits include a drug-free workplace which could result in fewer work-related accidents, increased productivity and a five percent reduction in workers' compensation insurance premiums.

The committee substitute could have a positive effect on competition, private enterprise and employment markets. Employers implementing a drug-free workplace program could enhance their positions in the workplace. The cost of compliance could be offset by the five percent reduction in workers' compensation insurance premiums. In addition, the savings in workers' compensation insurance premiums may be passed on to the state in terms of lower bids on state contracts.

**D. FISCAL COMMENTS:**

None

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

**A. APPLICABILITY OF THE MANDATES PROVISION:**

The committee substitute 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:**

The committee substitute does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

The committee substitute does not reduce the percentage of a state tax shared with counties or municipalities.

**V. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. OTHER COMMENTS:**

None.

**VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

At its January 19, 2000, meeting, the Committee on Governmental Operations adopted two amendments to HB 195 and approved the bill as a committee substitute. The committee substitute differs from the original bill in that it:

- does not contain a dollar limitation regarding the size of the state contract (the original bill required contractors to implement of a drug-free workplace only if the state contract is in excess of \$10,000;
- does not contain a limitation regarding the number of employees employed by the contractor (the original bill required implementation of a drug-free workplace if the contractor employs more than three employees).

**VII. SIGNATURES:**

**COMMITTEE ON HOUSE GOVERNMENTAL OPERATIONS:**

Prepared by:

Staff Director:

Amy K. Tuck

Jimmy O. Helms

**AS REVISED BY THE COMMITTEE ON INSURANCE:**

Prepared by:

Staff Director:

Robert E. Wolfe, Jr.

Stephen Hogge