

STORAGE NAME: h1217.sa.doc
DATE: March 30, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1217
RELATING TO: Medicaid fraud
SPONSOR(S): Representative(s) Kendrick
TIED BILL(S): None

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

- (1) STATE ADMINISTRATION
 - (2) FISCAL POLICY & RESOURCES
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
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I. SUMMARY:

Current law provides that if a Medicaid Fraud Control Unit investigator is or chooses to become certified, he or she is considered a state law enforcement officer.

Currently, all Medicaid Fraud Control Unit investigators are covered under the Select Exempt Service of the state personnel system. However, these investigators are restricted from becoming members of the Special Risk Class of the Florida Retirement System. Current law sets forth specific eligibility requirements for membership in the Special Risk Class. The eligibility requirements limit membership to members employed as law enforcement officers, firefighters, correctional and correctional probation officers, emergency medical technicians or paramedics who meet certain criteria.

This bill amends s. 409.9205, F.S., to remove the language restricting Medicaid fraud investigators, who are certified law enforcement officers from becoming members of the Special Risk Class. However, these investigators must meet the Special Risk requirements, and a majority of their duties must be law enforcement related as determined by the Human Resource Management Division of the Department of Management Services before gaining Special Risk Class membership.

The Department of Management Services states that the Department of Legal Affairs will pay a higher retirement contribution rate for the Medicaid fraud investigators that become members of the Special Risk Class. See "Fiscal Comments" section.

The Department of Management Services also states that there is no immediate fiscal impact on the Florida Retirement System Trust Fund.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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 type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

B. PRESENT SITUATION:

Section 409.920, F.S., provides the penalties for Medicaid provider fraud. These provisions are enforced by the Medicaid Fraud Control Unit under the Attorney General's Office. The Medicaid Fraud Control Unit was transferred from the Auditor General's office to the Attorney General's office in 1996, pursuant to s. 6, Ch. 96-331, L.O.F.

Section 409.9205, F.S. provides that if a Medicaid Fraud Control Unit investigator is or chooses to become certified under s. 943.1395, F.S.,¹ he or she is considered a state law enforcement officer. These investigators are covered under the Select Exempt Service of the state personnel system. However, these investigators are restricted from becoming members of the Special Risk Class of the Florida Retirement System (FRS).

Section 121.0515, F.S., sets forth specific eligibility requirements for membership in the Special Risk Class. These requirements limit membership to members employed as law enforcement officers, firefighters, correctional and correctional probation officers, emergency medical technicians or paramedics who meet the criteria in s. 121.0515, F.S., and certain health care workers. Such members are eligible for special risk membership because they may not be able to continue working in their special risk positions, which are physically demanding and require extraordinary agility and mental acuity, until the normal retirement age of 62, due to normal aging processes. Accordingly, Special Risk Class members are provided the same or greater career benefit as is provided for Regular Class members, but at an earlier age or with fewer years of service.

¹ This statute provides for "[c]ertification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation" under the Law Enforcement law.

The benefits of membership in the Special Risk Class include:

1. Receiving 3 percent of average final compensation (AFC), in contrast with the 1.68 percent AFC for a Regular Class member, for each year of service earned.
2. Reaching normal retirement at an earlier age (55 versus 62) or with fewer years of service (25 versus 30) than a Regular Class member.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 409.9205, F.S., to remove the language restricting Medicaid fraud investigators that are certified law enforcement officers from becoming members of the Special Risk Class. However, these investigators must meet the requirements under s. 121.0515, F.S., for Special Risk members, and a majority of their duties must be law enforcement related as determined by the Human Resource Management Division of the Department of Management Services before gaining Special Risk Class membership.

Medicaid fraud investigators who qualify for the Special Risk Class will enjoy significantly improved retirement benefits under the Special Risk Class than under the Regular Class, for the same job.

The Department of Management Services states that the Department of Legal Affairs will pay a higher retirement contribution rate for the Medicaid fraud investigators that become members of the Special Risk Class.² The difference between the Regular Class contribution rate and the Special Risk Class contribution rate is 11.14 percent, based upon employer contribution rates effective July 1, 2000.

The Department of Management Services also states that there would be no immediate fiscal impact on the Florida Retirement System Trust Fund.³ However, if future valuations of the FRS indicate a significant difference in the demographics of the Special Risk Class by adding the certified Medicaid fraud investigators, a change in contributions could be required.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Medicaid Fraud Investigation Unit, there are a total of 92 investigators and supervisory staff that could be affected by this bill. Of these 92 positions, certified law enforcement officers fill 39 positions and the other 53 positions are filled by non-law enforcement personnel. While having law enforcement certification is not sufficient grounds to

² 2001 Bill Analysis on HB 1217, Department of Management Services, March 22, 2001.

³ *Id.*

be covered by the Special Risk Class, the Department of Management Services states that they will use this criterion to differentiate between investigators to demonstrate potential additional retirement contribution costs owed by the Department of Legal Affairs, if these investigators become Special Risk Class members.⁴

See also "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Management Services provides these cost projections based upon the 11.14 percent difference between the Regular Class and the Special Risk Class contribution rates, effective July 1, 2000. The actual costs will depend upon the number of investigators that qualify for the Special Risk Class and the employer contribution rates that become effective July 1, 2001.

<u>Medicaid Fraud Investigators</u>	<u>Count</u>	<u>Annual Salaries</u>	<u>Additional Retirement Contributions Owed</u>
Certified			
Law Enforcement	39	\$1,810,793	\$201,722
Others	53	\$2,187,167	\$243,650
Total	92	\$3,997,960	\$445,372

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 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.

⁴ *Id.*

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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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

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