

By Senator Posey

15-455-01

1 A bill to be entitled
2 An act relating to the State Group Insurance
3 Program; amending ss. 110.123, 287.022, F.S.;
4 prohibiting limitations by the state on
5 competition for an insurance product or plan on
6 the basis of the compensation arrangement used
7 by the insurer or organization; providing an
8 effective date.

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

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12 Section 1. Subsection (3) of section 110.123, Florida
13 Statutes, is amended to read:

14 110.123 State group insurance program.--

15 (3) STATE GROUP INSURANCE PROGRAM.--

16 (a) The Division of State Group Insurance is created
17 within the Department of Management Services.

18 (b) It is the intent of the Legislature to offer a
19 comprehensive package of health insurance and retirement
20 benefits and a personnel system for state employees which are
21 provided in a cost-efficient and prudent manner, and to allow
22 state employees the option to choose benefit plans which best
23 suit their individual needs. Therefore, the state group
24 insurance program is established which may include the state
25 group health insurance plan, health maintenance organization
26 plans, group life insurance plans, group accidental death and
27 dismemberment plans, and group disability insurance plans.
28 Furthermore, the department is additionally authorized to
29 establish and provide as part of the state group insurance
30 program any other group insurance plans which are consistent
31 with the provisions of this section.

1 (c) Notwithstanding any provision in this section to
2 the contrary, it is the intent of the Legislature that the
3 department shall be responsible for all aspects of the
4 purchase of health care for state employees under the state
5 group health insurance plan and the health maintenance
6 organization plans. Responsibilities shall include, but not be
7 limited to, the development of requests for proposals for
8 state employee health services, the determination of health
9 care benefits to be provided, and the negotiation of contracts
10 for health care and health care administrative services.
11 Prior to the negotiation of contracts for health care
12 services, the Legislature intends that the department shall
13 develop, with respect to state collective bargaining issues,
14 the health benefits and terms to be included in the state
15 group health insurance program. The department shall adopt
16 rules necessary to perform its responsibilities pursuant to
17 this section. It is the intent of the Legislature that the
18 department shall be responsible for the contract management
19 and day-to-day management of the state employee health
20 insurance program, including, but not limited to, employee
21 enrollment, premium collection, payment to health care
22 providers, and other administrative functions related to the
23 program.

24 (d)1. Notwithstanding the provisions of chapter 287
25 and the authority of the department, for the purpose of
26 protecting the health of, and providing medical services to,
27 state employees participating in the state group insurance
28 program, the department may contract to retain the services of
29 professional administrators for the state group insurance
30 program. The agency shall follow good purchasing practices of
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1 state procurement to the extent practicable under the
2 circumstances.

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

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

18 4. The provisions of s. 120.57(3) apply to the
19 department's contracting process, except:

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

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

1 (e) The Department of Management Services and the
2 Division of State Group Insurance may not prohibit or limit
3 any properly licensed insurer, health maintenance
4 organization, prepaid limited health services organization, or
5 insurance agent from competing for any insurance product or
6 plan purchased, provided, or endorsed by the department or the
7 division on the basis of the compensation arrangement used by
8 the insurer or organization for its agents.

9 (f)~~(e)~~ Except as provided for in subparagraph(h)2.
10 ~~(g)2.~~, the percentage of state contribution toward the cost of
11 any plan in the state group insurance program shall be uniform
12 with respect to all state employees in state collective
13 bargaining units participating in the same plan or any similar
14 plan. Nothing contained within this section prohibits the
15 development of separate benefit plans for officers and
16 employees exempt from collective bargaining or the development
17 of separate benefit plans for each collective bargaining unit.

18 (g)~~(f)~~ Participation by individuals in the program
19 shall be available to all state officers, full-time state
20 employees, and part-time state employees; and such
21 participation in the program or any plan thereof shall be
22 voluntary. Participation in the program shall also be
23 available to retired state officers and employees who elect at
24 the time of retirement to continue coverage under the program,
25 but they may elect to continue all or only part of the
26 coverage they had at the time of retirement. A surviving
27 spouse may elect to continue coverage only under the state
28 group health insurance plan or a health maintenance
29 organization plan.

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

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

10 2. The department shall contract with health
11 maintenance organizations seeking to participate in the state
12 group insurance program through a request for proposal or
13 other procurement process, as developed by the Department of
14 Management Services and determined to be appropriate.

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

27 b. The department may establish uniform deductibles,
28 copayments, or coinsurance schedules for all participating HMO
29 plans.

30 c. The department may require detailed information
31 from each health maintenance organization participating in the

1 procurement process, including information pertaining to
2 organizational status, experience in providing prepaid health
3 benefits, accessibility of services, financial stability of
4 the plan, quality of management services, accreditation
5 status, quality of medical services, network access and
6 adequacy, performance measurement, ability to meet the
7 department's reporting requirements, and the actuarial basis
8 of the proposed rates and other data determined by the
9 director to be necessary for the evaluation and selection of
10 health maintenance organization plans and negotiation of
11 appropriate rates for these plans. Upon receipt of proposals
12 by health maintenance organization plans and the evaluation of
13 those proposals, the department may enter into negotiations
14 with all of the plans or a subset of the plans, as the
15 department determines appropriate. Nothing shall preclude the
16 department from negotiating regional or statewide contracts
17 with health maintenance organization plans when this is
18 cost-effective and when the department determines that the
19 plan offers high value to enrollees.

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

26 e. 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.

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1 3. The department 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 department may
5 establish, subject to the approval of the Legislature pursuant
6 to subsection (5), any such regional plan upon completion of
7 an actuarial study to determine any impact on plan benefits
8 and premiums.

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

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

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

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

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

24 e. Meets the minimum surplus requirements of s.
25 641.225.

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27 The department is authorized to contract with HMOs that meet
28 the requirements of sub-subparagraphs a.-d. prior to the open
29 enrollment period for state employees. The department is not
30 required to renew the contract with the HMOs as set forth in
31 this paragraph more than twice. Thereafter, the HMOs shall be

1 eligible to participate in the state group insurance program
2 only through the request for proposal process described in
3 subparagraph 2.

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

10 6. When a contract between a treating provider and the
11 state-contracted health maintenance organization is terminated
12 for any reason other than for cause, each party shall allow
13 any enrollee for whom treatment was active to continue
14 coverage and care when medically necessary, through completion
15 of treatment of a condition for which the enrollee was
16 receiving care at the time of the termination, until the
17 enrollee selects another treating provider, or until the next
18 open enrollment period offered, whichever is longer, but no
19 longer than 6 months after termination of the contract. Each
20 party to the terminated contract shall allow an enrollee who
21 has initiated a course of prenatal care, regardless of the
22 trimester in which care was initiated, to continue care and
23 coverage until completion of postpartum care. This does not
24 prevent a provider from refusing to continue to provide care
25 to an enrollee who is abusive, noncompliant, or in arrears in
26 payments for services provided. For care continued under this
27 subparagraph, the program and the provider shall continue to
28 be bound by the terms of the terminated contract. Changes made
29 within 30 days before termination of a contract are effective
30 only if agreed to by both parties.

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1 7. Any HMO participating in the state group insurance
2 program shall submit health care utilization and cost data to
3 the department, in such form and in such manner as the
4 department shall require, as a condition of participating in
5 the program. The department shall enter into negotiations
6 with its contracting HMOs to determine the nature and scope of
7 the data submission and the final requirements, format,
8 penalties associated with noncompliance, and timetables for
9 submission. These determinations shall be adopted by rule.

10 8. The department may establish and direct, with
11 respect to collective bargaining issues, a comprehensive
12 package of insurance benefits that may include supplemental
13 health and life coverage, dental care, long-term care, vision
14 care, and other benefits it determines necessary to enable
15 state employees to select from among benefit options that best
16 suit their individual and family needs.

17 a. Based upon a desired benefit package, the
18 department shall issue a request for proposal for health
19 insurance providers interested in participating in the state
20 group insurance program, and the department shall issue a
21 request for proposal for insurance providers interested in
22 participating in the non-health-related components of the
23 state group insurance program. Upon receipt of all proposals,
24 the department may enter into contract negotiations with
25 insurance providers submitting bids or negotiate a specially
26 designed benefit package. Insurance providers offering or
27 providing supplemental coverage as of May 30, 1991, which
28 qualify for pretax benefit treatment pursuant to s. 125 of the
29 Internal Revenue Code of 1986, with 5,500 or more state
30 employees currently enrolled may be included by the department
31 in the supplemental insurance benefit plan established by the

1 department without participating in a request for proposal,
2 submitting bids, negotiating contracts, or negotiating a
3 specially designed benefit package. These contracts shall
4 provide state employees with the most cost-effective and
5 comprehensive coverage available; however, no state or agency
6 funds shall be contributed toward the cost of any part of the
7 premium of such supplemental benefit plans. With respect to
8 dental coverage, the division shall include in any
9 solicitation or contract for any state group dental program
10 made after July 1, 2001, a comprehensive indemnity dental plan
11 option which offers enrollees a completely unrestricted choice
12 of dentists. If a dental plan is endorsed, or in some manner
13 recognized as the preferred product, such plan shall include a
14 comprehensive indemnity dental plan option which provides
15 enrollees with a completely unrestricted choice of dentists.

16 b. Pursuant to the applicable provisions of s.
17 110.161, and s. 125 of the Internal Revenue Code of 1986, the
18 department shall enroll in the pretax benefit program those
19 state employees who voluntarily elect coverage in any of the
20 supplemental insurance benefit plans as provided by
21 sub-subparagraph a.

22 c. Nothing herein contained shall be construed to
23 prohibit insurance providers from continuing to provide or
24 offer supplemental benefit coverage to state employees as
25 provided under existing agency plans.

26 (i)~~(h)~~ The benefits of the insurance authorized by
27 this section shall not be in lieu of any benefits payable
28 under chapter 440, the Workers' Compensation Law. The
29 insurance authorized by this law shall not be deemed to
30 constitute insurance to secure workers' compensation benefits
31 as required by chapter 440.

1 Section 2. Subsection (3) is added to section 287.022,
2 Florida Statutes, to read:

3 287.022 Purchase of insurance.--

4 (1) Insurance, while not a commodity, nevertheless
5 shall be purchased for all agencies by the department, except
6 that agencies may purchase title insurance for land
7 acquisition and may make emergency purchases of insurance
8 pursuant to s. 287.057(3)(a). The procedures for purchasing
9 insurance, whether the purchase is made by the department or
10 by the agencies, shall be the same as those set forth herein
11 for the purchase of commodities.

12 (2) When an insurer or agent pays a commission or any
13 portion thereof to any person, on insurance purchased under
14 this part, such payment shall be reported to the department in
15 writing and under oath within 30 days thereafter. Any failure
16 to report as required herein shall subject the insurer or
17 agent to the penalties provided in s. 624.15.

18 (3) The Department of Management Services and the
19 Division of State Group Insurance may not prohibit or limit
20 any properly licensed insurer, health maintenance
21 organization, prepaid limited health services organization, or
22 insurance agent from competing for any insurance product or
23 plan purchased, provided, or endorsed by the department or the
24 division on the basis of the compensation arrangement used by
25 the insurer or organization for its agents.

26 Section 3. This act shall take effect upon becoming a
27 law.

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SENATE SUMMARY

Prohibits the Department of Management Services and the Division of State Group Insurance from prohibiting or limiting insurers and organizations from competing for insurance products or plans on the basis of the compensation arrangement for the insurer's or organization's agents.