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Bill No. SB 304, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Mayfield offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Section 112.215, Florida Statutes, is amended to read:

112.215 Government employees; deferred compensation program.--

(1) This section shall be known and may be cited as the "Government Employees' Deferred Compensation Plan Act."

(2) For the purposes of this section, the term "employee" means any person, whether appointed, elected, or under contract, providing services for the state; any state agency or county or other political subdivision of the state; ~~or any municipality; or any constitutional county officer~~ under s. 1(d), Article VIII of the State Constitution for which compensation or statutory fees are paid.

(3) In accordance with a plan of deferred compensation which has been approved as herein provided, the state or any

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1 state agency, county, municipality, ~~or~~ other political
2 subdivision, or constitutional county officer may, by contract
3 or a collective bargaining agreement, agree with any employee
4 to defer all or any portion of that employee's otherwise
5 payable compensation and, pursuant to the terms of such
6 approved plan and in such proportions as may be designated or
7 directed under that plan, place such deferred compensation in
8 savings accounts or use the same to purchase fixed or variable
9 life insurance or annuity contracts, securities, evidence of
10 indebtedness, or such other investment products as may have
11 been approved for the purposes of carrying out the objectives
12 of such plan. Such insurance, annuity, savings, or investment
13 products shall be underwritten and offered in compliance with
14 the applicable federal and state laws and regulations by
15 persons who are duly authorized by applicable state and
16 federal authorities.

17 (4)(a) The Treasurer, with the approval of the State
18 Board of Administration, shall establish such plan or plans of
19 deferred compensation for state employees, including all such
20 investment vehicles or products incident thereto, as may be
21 available through, or offered by, qualified companies or
22 persons, and may approve one or more such plans for
23 implementation by and on behalf of the state and its agencies
24 and employees.

25 (b) If the Treasurer deems it advisable, he or she
26 shall have the power, with the approval of the State Board of
27 Administration, to create a trust or other special funds for
28 the segregation of funds or assets resulting from compensation
29 deferred at the request of employees of the state or its
30 agencies and for the administration of such program.

31 (c) The Treasurer, with the approval of the State

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1 Board of Administration, may delegate responsibility for
2 administration of the plan to a person the Treasurer
3 determines to be qualified, compensate such person, and,
4 directly or through such person or pursuant to a collective
5 bargaining agreement, contract with a private corporation or
6 institution to provide such services as may be part of any
7 such plan or as may be deemed necessary or proper by the
8 Treasurer or such person, including, but not limited to,
9 providing consolidated billing, individual and collective
10 recordkeeping and accountings, asset purchase, control, and
11 safekeeping, and direct disbursement of funds to employees or
12 other beneficiaries. The Treasurer may authorize a person,
13 private corporation, or institution to make direct
14 disbursement of funds under the plan to an employee or other
15 beneficiary only upon the order of the Comptroller to the
16 Treasurer.

17 (d) In accordance with such approved plan, and upon
18 contract or agreement with an eligible employee, deferrals of
19 compensation may be accomplished by payroll deductions made by
20 the appropriate officer or officers of the state, with such
21 funds being thereafter held and administered in accordance
22 with the plan.

23 (5) Any county, municipality, or other political
24 subdivision of the state may by ordinance, and any
25 constitutional county officer under s. 1(d), Article VIII of
26 the State Constitution of 1968 may by contract agreement or
27 other documentation constituting approval, adopt and establish
28 for itself and its employees a deferred compensation program.
29 The ordinance shall designate an appropriate official of the
30 county, municipality, or political subdivision to approve and
31 administer a deferred compensation plan or otherwise provide

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1 for such approval and administration. The ordinance shall
2 also designate a public official or body to make the
3 determinations provided for in paragraph (6)(b). If a
4 constitutional county officer elects to adopt and establish
5 for that office and its employees a deferred compensation
6 program, the constitutional county officer shall be the
7 appropriate official to make the determinations provided for
8 in this subsection and in paragraph (6)(b).

9 (6)(a) No deferred compensation plan of the state
10 shall become effective until approved by the State Board of
11 Administration and the Treasurer is satisfied by opinion from
12 such federal agency or agencies as may be deemed necessary
13 that the compensation deferred thereunder and/or the
14 investment products purchased pursuant to the plan will not be
15 included in the employee's taxable income under federal or
16 state law until it is actually received by such employee under
17 the terms of the plan, and that such compensation will
18 nonetheless be deemed compensation at the time of deferral for
19 the purposes of social security coverage, for the purposes of
20 the state retirement system, and for any other retirement,
21 pension, or benefit program established by law.

22 (b) No deferred compensation plan of a county,
23 municipality, ~~or~~ other political subdivision, or
24 constitutional county officer shall become effective until the
25 appropriate official or body designated under subsection (5)
26 ~~by ordinance~~ is satisfied by opinion from such federal agency
27 or agencies as may be deemed necessary that the compensation
28 deferred thereunder and/or the investment products purchased
29 pursuant to the plan will not be included in the employee's
30 taxable income under federal or state law until it is actually
31 received by such employee under the terms of the plan, and

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1 that such compensation will nonetheless be deemed compensation
2 at the time of deferral for the purposes of social security
3 coverage, for the purposes of the retirement system of the
4 appropriate county, municipality, ~~or~~ political subdivision, or
5 constitutional county officer, and for any other retirement,
6 pension, or benefit program established by law.

7 (7) The deferred compensation programs authorized by
8 this section, and any plan approved and adopted as herein
9 provided, shall exist and serve in addition to any other
10 retirement, pension, or benefit systems established by the
11 state or its agencies, counties, municipalities, ~~or~~ other
12 political subdivisions, or constitutional county officers and
13 shall not supersede, make inoperative, or reduce any benefits
14 provided by the Florida Retirement System or by another
15 retirement, pension, or benefit program established by law.

16 All records identifying individual participants in any plan
17 under this section and their personal account activities shall
18 be confidential and are exempt from the provisions of s.
19 119.07(1).

20 (8)(a) There is hereby created a Deferred Compensation
21 Advisory Council composed of seven members.

22 1. One member shall be appointed by the Speaker of the
23 House of Representatives and the President of the Senate
24 jointly and shall be an employee of the legislative branch.

25 2. One member shall be appointed by the Chief Justice
26 of the Supreme Court and shall be an employee of the judicial
27 branch.

28 3. One member shall be appointed by the chair of the
29 Public Employees Relations Commission and shall be a nonexempt
30 public employee.

31 4. The remaining four members shall be employed by the

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1 executive branch and shall be appointed as follows:

2 a. One member shall be appointed by the Chancellor of
3 the State University System and shall be an employee of the
4 university system.

5 b. One member shall be appointed by the Treasurer and
6 shall be an employee of the Treasurer.

7 c. One member shall be appointed by the Governor and
8 shall be an employee of the executive branch.

9 d. One member shall be appointed by the Comptroller
10 and shall be an employee of the Comptroller.

11 (b) Each member shall serve for a term of 4 years from
12 the date of appointment, except that a vacancy shall be filled
13 by appointment for the remainder of the term.

14 (c) Members shall elect a chair annually.

15 (d) The council shall meet at the call of its chair,
16 at the request of a majority of its membership, or at the
17 request of the Treasurer, but not less than twice a year. The
18 business of the council shall be presented to the council in
19 the form of an agenda. The agenda shall be set by the
20 Treasurer and shall include items of business requested by the
21 council members.

22 (e) A majority of the members shall constitute a
23 quorum, and action by a majority of a quorum shall be
24 official.

25 (f) The council shall make a report of each meeting to
26 the Treasurer, which shall show the names of the members
27 present and shall include a record of its discussions,
28 recommendations, and actions taken. The Treasurer shall keep
29 the records of the proceedings of each meeting on file and
30 shall make the records available to any interested person or
31 group.

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1 (g) Members of the council shall serve without
2 compensation but shall be entitled to receive reimbursement
3 for per diem and travel expenses as provided in s. 112.061.

4 (h) The advisory council shall provide assistance and
5 recommendations to the Treasurer relating to the provisions of
6 the plan, the insurance or investment options to be offered
7 under the plan, and any other contracts or appointments deemed
8 necessary by the council and the Treasurer to carry out the
9 provisions of this act. The Treasurer shall inform the
10 council of the manner in which each council recommendation is
11 being addressed. The Treasurer shall provide the council, at
12 least annually, a report on the status of the deferred
13 compensation program, including, but not limited to,
14 information on participant enrollment, amount of compensation
15 deferred, total plan assets, product provider performance, and
16 participant satisfaction with the program.

17 (9) The purchase of any insurance contract or annuity
18 or the investment in another investment option under any plan
19 of deferred compensation provided for in the United States
20 Internal Revenue Code and not prohibited under the laws of
21 this state for an employee shall impose no liability or
22 responsibility whatsoever on the state, county, municipality,
23 ~~or~~ other political subdivision, or constitutional county
24 officer, except to show that the payments have been remitted
25 for the purposes for which the compensation has been deferred.

26 (10)(a) The moneys, pensions, annuities, or other
27 benefits accrued or accruing to any person under the
28 provisions of any plan providing for the deferral of
29 compensation and the accumulated contributions and the cash
30 and securities in the funds created thereunder are hereby
31 exempt from any state, county, or municipal tax. They shall

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1 not be subject to execution or attachment or to any legal
2 process whatsoever by a creditor of the employee and shall be
3 unassignable by the employee.

4 (b)1. There is created in the State Treasury the
5 Deferred Compensation Trust Fund, through which the Treasurer
6 as trustee shall hold moneys, pensions, annuities, or other
7 benefits accrued or accruing under and pursuant to 26 U.S.C.
8 s. 457 and the deferred compensation plan provided for therein
9 and adopted by this state; and

10 a. All amounts of compensation deferred thereunder;

11 b. All property and rights purchased with such
12 amounts; and

13 c. All income attributable to such amounts, property,
14 or rights.

15 2. Notwithstanding the mandates of 26 U.S.C. s.
16 457(b)(6), all of the assets specified in subparagraph 1.
17 shall be held in trust for the exclusive benefit of
18 participants and their beneficiaries as mandated by 26 U.S.C.
19 s. 457(g)(1).

20 (11) With respect to any funds held pursuant to a
21 deferred compensation plan, any plan provider which is a bank
22 or savings association and which provides time deposit
23 accounts and certificates of deposit as an investment product
24 to the plan participants may, with the approval of the State
25 Board of Administration for providers in the state plan, or
26 with the approval of the appropriate official or body
27 designated under subsection (5) by ordinance for a plan of a
28 county, municipality municipal, or other political
29 subdivision, or constitutional county officer plan, be exempt
30 from the provisions of chapter 280 requiring it to be a
31 qualified public depository, provided:

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1 (a) The bank or savings association shall, to the
2 extent that the time deposit accounts or certificates of
3 deposit are not insured by the Federal Deposit Insurance
4 Corporation or the Federal Savings and Loan Insurance
5 Corporation, pledge collateral with the Treasurer for all
6 state funds held by it under a deferred compensation plan, or
7 with such other appropriate official for all public funds held
8 by it under a deferred compensation plan of a county,
9 municipality, ~~or~~ other political subdivision, or
10 constitutional county officer, in an amount which equals at
11 least 150 percent of all uninsured deferred compensation funds
12 then held.

13 (b) Said collateral shall be of the kind permitted by
14 s. 280.13 and shall be pledged in the manner provided for by
15 the applicable provisions of chapter 280.

16
17 The Treasurer shall have all the applicable powers provided in
18 ss. 280.04, 280.05, and 280.08 relating to the sale or other
19 disposition of the pledged collateral.

20 (12) The Treasurer may adopt any rule necessary to
21 administer and implement this act with respect to deferred
22 compensation plans for state employees.

23 (13) This subsection may not impair an existing
24 contract. In each county that has one or more constitutional
25 county officers, the board of county commissioners and the
26 constitutional county officers shall negotiate a joint
27 deferred compensation program for all their respective
28 employees under s. 163.01. If all parties to the negotiation
29 cannot agree upon a joint deferred compensation program, the
30 provisions of subsection (5) apply.

31 Section 2. This act shall take effect October 1, 2001.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 remove from the title of the bill: the entire title

4

5 and insert in lieu thereof:

6 A bill to be entitled

7 An act relating to deferred compensation
8 programs for government employees; amending s.
9 112.215, F.S.; redefining the term "employee,"
10 for purposes of participation in such programs,
11 to include employees of constitutional county
12 officers; prescribing duties of constitutional
13 county officers with respect to their
14 employees; providing for negotiation of a joint
15 deferred compensation program for certain local
16 employees currently eligible for participation
17 in such programs and employees of
18 constitutional county officers; providing an
19 effective date.

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