SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 304

SPONSOR: Senator Pruitt

SUBJECT: Deferred Compensation

DATE: February 12, 2001 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	Favorable
2.			CA	
3.				
4.				
5.				

I. Summary:

The bill permits, but does not mandate, that local constitutional officers may enter into interlocal agreements for the combination of their separately constituted deferred compensation programs.

This bill amends section 112.215, Florida Statutes.

II. Present Situation:

Section 457 of Title 26 of the United States Code permits employer establishment of salary deferral programs to shield earned income from the imposition of federal income taxes. While an employer acts as the nominal plan sponsor, contributions are made by the employee who bears all of the investment risk. In this sense a 457 plan is not a pension account for which the employer assures a result.

The Office of the State Treasurer administers the State of Florida Deferred Compensation Plan for state employees and periodically undertakes a competitive procurement of provider companies to act as fund managers for participating employees. State employees may choose among several provider companies representing insurance companies, mutual funds, and savings institutions. Each provider entity permits the participant to allocate funds among a variety of fixed and variable products according to the individual's perceived degree of comfort and personal financial objectives. At the cessation of employment the employee may withdraw contributions and earnings in a full or partial lump sum or structure the payments over a fixed number of years, subject to the contract provisions of the provider company and any premature distribution penalties set by the Internal Revenue Code. Employees may withdraw funds for specified hardship reasons; unlike corporate-type 401(k) pension plans, they are under no obligation to repay these withdrawn amounts with interest.

Deferred compensation contribution limits are indexed to inflation under federal law. The current year limit is the lesser of 25 percent of salary or $8500 annually. In the last three years of employment a participant may double the nominal dollar contributions, although that indexed threshold is set at $15,000. There are additional income limitations for the tax-shielding of other employee benefit programs.

III. Effect of Proposed Changes:

The bill authorizes local government constitutional officers to permissively combine their individually operated deferred compensation plans by entering into interlocal agreements. The bill makes such agreements voluntary with each constitutional officer.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. The execution of any such interlocal agreement is optional with each participating employer.

B. Public Records/Open Meetings Issues:

None. Deferred compensation accounts are confidential under existing law.

C. Trust Funds Restrictions:

None. Salary deferral plans are already subject to a trust agreement for the protection of employee funds.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Because salary deferral programs shield current income from federal taxes, they act as tax expenditures to the federal treasury. Depending upon the participating employee's tax bracket this means that for most employees from 15 percent to 28 percent (10 percent to 25 percent, if pending federal legislation is enacted) of otherwise taxable income is not paid as federal taxes until a distribution occurs.

B. Private Sector Impact:

Combination of multiple provider company accounts under such an arrangement may produce increased competition for business and produce lower overall administrative expense.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Many large corporations, as well as other states, use such workplace savings programs to encourage retirement savings and lessen the reliance upon tax-supported programs. Such programs are prevalent in industries with high capital requirements (natural resource) or are interest rate sensitive (utilities) and are frequently offered along with dividend reinvestment and stock ownership plans.

Deferred compensation programs do not adversely affect pension benefits payable under a state or local government retirement system. They shield income from the payment of *federal* income taxes only. Employer and employee wage deductions for FICA (Federal Insurance Contributions Act, i.e., Social Security) are imposed on gross income and are not affected.

VIII. Amendments:

None.