

1 A bill to be entitled
2 An act relating to deferred compensation
3 programs for government employees; amending s.
4 112.215, F.S.; redefining the term "employee,"
5 for purposes of participation in such programs,
6 to include employees of constitutional county
7 officers; prescribing duties of constitutional
8 county officers with respect to their
9 employees; providing for negotiation of a joint
10 deferred compensation program for certain local
11 employees currently eligible for participation
12 in such programs and employees of
13 constitutional county officers; providing for
14 funding costs of the deferred compensation
15 plan; providing an effective date.

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

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

21 112.215 Government employees; deferred compensation
22 program.--

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

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

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

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

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

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

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

26 (e) The administrative costs of the deferred
27 compensation plan shall be wholly or partially self-funded.
28 Fees for self-funding of the plan shall be paid by investment
29 providers and may be recouped from their respective plan
30 participants. The fees shall be deposited in the Deferred
31 Compensation Trust Fund.

1 (5) Any county, municipality, or other political
2 subdivision of the state may by ordinance, and any
3 constitutional county officer under s. 1(d), Article VIII of
4 the State Constitution of 1968 may by contract agreement or
5 other documentation constituting approval, adopt and establish
6 for itself and its employees a deferred compensation program.
7 The ordinance shall designate an appropriate official of the
8 county, municipality, or political subdivision to approve and
9 administer a deferred compensation plan or otherwise provide
10 for such approval and administration. The ordinance shall
11 also designate a public official or body to make the
12 determinations provided for in paragraph (6)(b). If a
13 constitutional county officer elects to adopt and establish
14 for that office and its employees a deferred compensation
15 program, the constitutional county officer shall be the
16 appropriate official to make the determinations provided for
17 in this subsection and in paragraph (6)(b).

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

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1 (b) No deferred compensation plan of a county,
2 municipality, ~~or~~ other political subdivision, or
3 constitutional county officer shall become effective until the
4 appropriate official or body designated under subsection (5)
5 ~~by ordinance~~ is satisfied by opinion from such federal agency
6 or agencies as may be deemed necessary that the compensation
7 deferred thereunder and/or the investment products purchased
8 pursuant to the plan will not be included in the employee's
9 taxable income under federal or state law until it is actually
10 received by such employee under the terms of the plan, and
11 that such compensation will nonetheless be deemed compensation
12 at the time of deferral for the purposes of social security
13 coverage, for the purposes of the retirement system of the
14 appropriate county, municipality, ~~or~~ political subdivision, or
15 constitutional county officer, and for any other retirement,
16 pension, or benefit program established by law.

17 (7) The deferred compensation programs authorized by
18 this section, and any plan approved and adopted as herein
19 provided, shall exist and serve in addition to any other
20 retirement, pension, or benefit systems established by the
21 state or its agencies, counties, municipalities, ~~or~~ other
22 political subdivisions, or constitutional county officers and
23 shall not supersede, make inoperative, or reduce any benefits
24 provided by the Florida Retirement System or by another
25 retirement, pension, or benefit program established by law.
26 All records identifying individual participants in any plan
27 under this section and their personal account activities shall
28 be confidential and are exempt from the provisions of s.
29 119.07(1).

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

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

4 2. One member shall be appointed by the Chief Justice
5 of the Supreme Court and shall be an employee of the judicial
6 branch.

7 3. One member shall be appointed by the chair of the
8 Public Employees Relations Commission and shall be a nonexempt
9 public employee.

10 4. The remaining four members shall be employed by the
11 executive branch and shall be appointed as follows:

12 a. One member shall be appointed by the Chancellor of
13 the State University System and shall be an employee of the
14 university system.

15 b. One member shall be appointed by the Treasurer and
16 shall be an employee of the Treasurer.

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

19 d. One member shall be appointed by the Comptroller
20 and shall be an employee of the Comptroller.

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

24 (c) Members shall elect a chair annually.

25 (d) The council shall meet at the call of its chair,
26 at the request of a majority of its membership, or at the
27 request of the Treasurer, but not less than twice a year. The
28 business of the council shall be presented to the council in
29 the form of an agenda. The agenda shall be set by the
30 Treasurer and shall include items of business requested by the
31 council members.

1 (e) A majority of the members shall constitute a
2 quorum, and action by a majority of a quorum shall be
3 official.

4 (f) The council shall make a report of each meeting to
5 the Treasurer, which shall show the names of the members
6 present and shall include a record of its discussions,
7 recommendations, and actions taken. The Treasurer shall keep
8 the records of the proceedings of each meeting on file and
9 shall make the records available to any interested person or
10 group.

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

14 (h) The advisory council shall provide assistance and
15 recommendations to the Treasurer relating to the provisions of
16 the plan, the insurance or investment options to be offered
17 under the plan, and any other contracts or appointments deemed
18 necessary by the council and the Treasurer to carry out the
19 provisions of this act. The Treasurer shall inform the
20 council of the manner in which each council recommendation is
21 being addressed. The Treasurer shall provide the council, at
22 least annually, a report on the status of the deferred
23 compensation program, including, but not limited to,
24 information on participant enrollment, amount of compensation
25 deferred, total plan assets, product provider performance, and
26 participant satisfaction with the program.

27 (9) The purchase of any insurance contract or annuity
28 or the investment in another investment option under any plan
29 of deferred compensation provided for in the United States
30 Internal Revenue Code and not prohibited under the laws of
31 this state for an employee shall impose no liability or

1 responsibility whatsoever on the state, county, municipality,
2 ~~or~~ other political subdivision, or constitutional county
3 officer, except to show that the payments have been remitted
4 for the purposes for which the compensation has been deferred.

5 (10)(a) The moneys, pensions, annuities, or other
6 benefits accrued or accruing to any person under the
7 provisions of any plan providing for the deferral of
8 compensation and the accumulated contributions and the cash
9 and securities in the funds created thereunder are hereby
10 exempt from any state, county, or municipal tax. They shall
11 not be subject to execution or attachment or to any legal
12 process whatsoever by a creditor of the employee and shall be
13 unassignable by the employee.

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

20 a. All amounts of compensation deferred thereunder;

21 b. All property and rights purchased with such
22 amounts; and

23 c. All income attributable to such amounts, property,
24 or rights.

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

30 (11) With respect to any funds held pursuant to a
31 deferred compensation plan, any plan provider which is a bank

1 or savings association and which provides time deposit
2 accounts and certificates of deposit as an investment product
3 to the plan participants may, with the approval of the State
4 Board of Administration for providers in the state plan, or
5 with the approval of the appropriate official or body
6 designated under subsection (5)~~by ordinance~~ for a plan of a
7 county, municipality ~~municipal, or~~ other political
8 subdivision, or constitutional county officer ~~plan~~, be exempt
9 from the provisions of chapter 280 requiring it to be a
10 qualified public depository, provided:

11 (a) The bank or savings association shall, to the
12 extent that the time deposit accounts or certificates of
13 deposit are not insured by the Federal Deposit Insurance
14 Corporation or the Federal Savings and Loan Insurance
15 Corporation, pledge collateral with the Treasurer for all
16 state funds held by it under a deferred compensation plan, or
17 with such other appropriate official for all public funds held
18 by it under a deferred compensation plan of a county,
19 municipality, ~~or~~ other political subdivision, or
20 constitutional county officer, in an amount which equals at
21 least 150 percent of all uninsured deferred compensation funds
22 then held.

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

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27 The Treasurer shall have all the applicable powers provided in
28 ss. 280.04, 280.05, and 280.08 relating to the sale or other
29 disposition of the pledged collateral.

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

4 (13) This subsection may not impair an existing
5 contract. In each county that has one or more constitutional
6 county officers, the board of county commissioners and the
7 constitutional county officers shall negotiate a joint
8 deferred compensation program for all their respective
9 employees under s. 163.01. If all parties to the negotiation
10 cannot agree upon a joint deferred compensation program, the
11 provisions of subsection (5) apply.

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