

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the state group insurance program;  
7 amending s. 110.123, F.S.; revising and providing  
8 definitions; including the TRICARE supplemental insurance  
9 plan within the state group insurance program; requiring  
10 the Department of Management Services to purchase health  
11 care for employees under the TRICARE supplemental  
12 insurance plan; authorizing a surviving spouse to elect to  
13 continue coverage under the TRICARE supplemental insurance  
14 plan; providing that an enrollee in the TRICARE  
15 supplemental insurance plan may change to any other state  
16 health plan during open enrollment; providing an effective  
17 date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21 Section 1. Subsections (2) and (3) of section 110.123,  
22 Florida Statutes, are amended to read:

23 110.123 State group insurance program.--

24 (2) DEFINITIONS.--As used in this section, the term:

25 (a) "Department" means the Department of Management  
26 Services.

27 (b) "Enrollee" means all state officers and employees,  
28 retired state officers and employees, surviving spouses of  
29 deceased state officers and employees, and terminated employees  
30 or individuals with continuation coverage who are enrolled in an  
31 insurance plan offered by the state group insurance program.

32 "Enrollee" includes all state university officers and employees,  
33 retired state university officers and employees, surviving  
34 spouses of deceased state university officers and employees, and  
35 terminated state university employees or individuals with  
36 continuation coverage who are enrolled in an insurance plan  
37 offered by the state group insurance program.

38 (c) "Full-time state employees" includes all full-time  
39 employees of all branches or agencies of state government  
40 holding salaried positions and paid by state warrant or from  
41 agency funds, and employees paid from regular salary  
42 appropriations for 8 months' employment, including university  
43 personnel on academic contracts, but in no case shall "state  
44 employee" or "salaried position" include persons paid from  
45 other-personal-services (OPS) funds. "Full-time employees"  
46 includes all full-time employees of the state universities.

47 (d) "Health maintenance organization" or "HMO" means an  
48 entity certified under part I of chapter 641.

49 (e) "Health plan member" means any person participating in  
50 a state group health insurance plan, a TRICARE supplemental  
51 insurance plan, or ~~in~~ a health maintenance organization plan

52 | under the state group insurance program, including enrollees and  
53 | covered dependents thereof.

54 |       (f) "Part-time state employee" means any employee of any  
55 | branch or agency of state government paid by state warrant from  
56 | salary appropriations or from agency funds, and who is employed  
57 | for less than the normal full-time workweek established by the  
58 | department or, if on academic contract or seasonal or other type  
59 | of employment which is less than year-round, is employed for  
60 | less than 8 months during any 12-month period, but in no case  
61 | shall "part-time" employee include a person paid from other-  
62 | personal-services (OPS) funds. "Part-time state employee"  
63 | includes any part-time employee of the state universities.

64 |       (g) "Retired state officer or employee" or "retiree" means  
65 | any state or state university officer or employee who retires  
66 | under a state retirement system or a state optional annuity or  
67 | retirement program or is placed on disability retirement, and  
68 | who was insured under the state group insurance program at the  
69 | time of retirement, and who begins receiving retirement benefits  
70 | immediately after retirement from state or state university  
71 | office or employment. In addition to these requirements, any  
72 | state officer or state employee who retires under the Public  
73 | Employee Optional Retirement Program established under part II  
74 | of chapter 121 shall be considered a "retired state officer or  
75 | employee" or "retiree" as used in this section if he or she:

76 |           1. Meets the age and service requirements to qualify for  
77 | normal retirement as set forth in s. 121.021(29); or

78 |           2. Has attained the age specified by s. 72(t)(2)(A)(i) of  
79 | the Internal Revenue Code and has 6 years of creditable service.

80 (h) "State agency" or "agency" means any branch,  
81 department, or agency of state government. "State agency" or  
82 "agency" includes any state university for purposes of this  
83 section only.

84 (i) "State group health insurance plan or plans" or "state  
85 plan or plans" mean the state self-insured health insurance plan  
86 or plans offered to state officers and employees, retired state  
87 officers and employees, and surviving spouses of deceased state  
88 officers and employees pursuant to this section.

89 (j) "State-contracted HMO" means any health maintenance  
90 organization under contract with the department to participate  
91 in the state group insurance program.

92 (k) "State group insurance program" or "programs" means  
93 the package of insurance plans offered to state officers and  
94 employees, retired state officers and employees, and surviving  
95 spouses of deceased state officers and employees pursuant to  
96 this section, including the state group health insurance plan or  
97 plans, health maintenance organization plans, TRICARE  
98 supplemental insurance plans, and other plans required or  
99 authorized by law.

100 (l) "State officer" means any constitutional state  
101 officer, any elected state officer paid by state warrant, or any  
102 appointed state officer who is commissioned by the Governor and  
103 who is paid by state warrant.

104 (m) "Surviving spouse" means the widow or widower of a  
105 deceased state officer, full-time state employee, part-time  
106 state employee, or retiree if such widow or widower was covered  
107 as a dependent under the state group health insurance plan, a

108 TRICARE supplemental insurance plan, or a health maintenance  
 109 organization plan established pursuant to this section at the  
 110 time of the death of the deceased officer, employee, or retiree.  
 111 "Surviving spouse" also means any widow or widower who is  
 112 receiving or eligible to receive a monthly state warrant from a  
 113 state retirement system as the beneficiary of a state officer,  
 114 full-time state employee, or retiree who died prior to July 1,  
 115 1979. For the purposes of this section, any such widow or  
 116 widower shall cease to be a surviving spouse upon his or her  
 117 remarriage.

118 (n) "TRICARE supplemental insurance plan" means the  
 119 Department of Defense Health Insurance Program for eligible  
 120 members of the uniformed services authorized by Title 10 U.S.C.  
 121 s. 1097.

122 (3) STATE GROUP INSURANCE PROGRAM.--

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

125 (b) It is the intent of the Legislature to offer a  
 126 comprehensive package of health insurance and retirement  
 127 benefits and a personnel system for state employees which are  
 128 provided in a cost-efficient and prudent manner, and to allow  
 129 state employees the option to choose benefit plans which best  
 130 suit their individual needs. Therefore, the state group  
 131 insurance program is established which may include the state  
 132 group health insurance plan or plans, health maintenance  
 133 organization plans, group life insurance plans, TRICARE  
 134 supplemental insurance plans, group accidental death and  
 135 dismemberment plans, and group disability insurance plans.

136 Furthermore, the department is additionally authorized to  
137 establish and provide as part of the state group insurance  
138 program any other group insurance plans or coverage choices that  
139 are consistent with the provisions of this section.

140 (c) Notwithstanding any provision in this section to the  
141 contrary, it is the intent of the Legislature that the  
142 department shall be responsible for all aspects of the purchase  
143 of health care for state employees under the state group health  
144 insurance plan or plans, TRICARE supplemental insurance plans,  
145 and the health maintenance organization plans. Responsibilities  
146 shall include, but not be limited to, the development of  
147 requests for proposals or invitations to negotiate for state  
148 employee health services, the determination of health care  
149 benefits to be provided, and the negotiation of contracts for  
150 health care and health care administrative services. Prior to  
151 the negotiation of contracts for health care services, the  
152 Legislature intends that the department shall develop, with  
153 respect to state collective bargaining issues, the health  
154 benefits and terms to be included in the state group health  
155 insurance program. The department shall adopt rules necessary to  
156 perform its responsibilities pursuant to this section. It is  
157 the intent of the Legislature that the department shall be  
158 responsible for the contract management and day-to-day  
159 management of the state employee health insurance program,  
160 including, but not limited to, employee enrollment, premium  
161 collection, payment to health care providers, and other  
162 administrative functions related to the program.

163 (d)1. Notwithstanding the provisions of chapter 287 and  
 164 the authority of the department, for the purpose of protecting  
 165 the health of, and providing medical services to, state  
 166 employees participating in the state group insurance program,  
 167 the department may contract to retain the services of  
 168 professional administrators for the state group insurance  
 169 program. The agency shall follow good purchasing practices of  
 170 state procurement to the extent practicable under the  
 171 circumstances.

172 2. Each vendor in a major procurement, and any other  
 173 vendor if the department deems it necessary to protect the  
 174 state's financial interests, shall, at the time of executing any  
 175 contract with the department, post an appropriate bond with the  
 176 department in an amount determined by the department to be  
 177 adequate to protect the state's interests but not higher than  
 178 the full amount estimated to be paid annually to the vendor  
 179 under the contract.

180 3. Each major contract entered into by the department  
 181 pursuant to this section shall contain a provision for payment  
 182 of liquidated damages to the department for material  
 183 noncompliance by a vendor with a contract provision. The  
 184 department may require a liquidated damages provision in any  
 185 contract if the department deems it necessary to protect the  
 186 state's financial interests.

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

189 a. A formal written protest of any decision, intended  
 190 decision, or other action subject to protest shall be filed

191 within 72 hours after receipt of notice of the decision,  
192 intended decision, or other action.

193 b. As an alternative to any provision of s. 120.57(3), the  
194 department may proceed with the bid selection or contract award  
195 process if the director of the department sets forth, in  
196 writing, particular facts and circumstances which demonstrate  
197 the necessity of continuing the procurement process or the  
198 contract award process in order to avoid a substantial  
199 disruption to the provision of any scheduled insurance services.

200 (e) The Department of Management Services and the Division  
201 of State Group Insurance may ~~shall~~ not prohibit or limit any  
202 properly licensed insurer, health maintenance organization,  
203 prepaid limited health services organization, or insurance agent  
204 from competing for any insurance product or plan purchased,  
205 provided, or endorsed by the department or the division on the  
206 basis of the compensation arrangement used by the insurer or  
207 organization for its agents.

208 (f) Except as provided for in subparagraph (h)2., the  
209 state contribution toward the cost of any plan in the state  
210 group insurance program shall be uniform with respect to all  
211 state employees in a state collective bargaining unit  
212 participating in the same coverage tier in the same plan.

213 ~~Nothing contained within~~ This section does not prohibit  
214 ~~prohibits~~ the development of separate benefit plans for officers  
215 and employees exempt from the career service or the development  
216 of separate benefit plans for each collective bargaining unit.

217 (g) Participation by individuals in the program is ~~shall~~  
218 be available to all state officers, full-time state employees,



219 and part-time state employees; and such participation in the  
 220 program or any plan ~~is thereof shall be~~ voluntary. Participation  
 221 in the program ~~is shall~~ also be available to retired state  
 222 officers and employees, as defined in paragraph (2)(g), who  
 223 elect at the time of retirement to continue coverage under the  
 224 program, but they may elect to continue all or only part of the  
 225 coverage they had at the time of retirement. A surviving spouse  
 226 may elect to continue coverage only under a state group health  
 227 insurance plan, a TRICARE supplemental insurance plan, or a  
 228 health maintenance organization plan.

229 (h)1. A person eligible to participate in the state group  
 230 insurance program may be authorized by rules adopted by the  
 231 department, in lieu of participating in the state group health  
 232 insurance plan, to exercise an option to elect membership in a  
 233 health maintenance organization plan which is under contract  
 234 with the state in accordance with criteria established by this  
 235 section and by said rules. The offer of optional membership in  
 236 a health maintenance organization plan permitted by this  
 237 paragraph may be limited or conditioned by rule as may be  
 238 necessary to meet the requirements of state and federal laws.

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

244 a. The department shall establish a schedule of minimum  
 245 benefits for health maintenance organization coverage, and that  
 246 schedule shall include: physician services; inpatient and

247 outpatient hospital services; emergency medical services,  
 248 including out-of-area emergency coverage; diagnostic laboratory  
 249 and diagnostic and therapeutic radiologic services; mental  
 250 health, alcohol, and chemical dependency treatment services  
 251 meeting the minimum requirements of state and federal law;  
 252 skilled nursing facilities and services; prescription drugs;  
 253 age-based and gender-based wellness benefits; and other benefits  
 254 as may be required by the department. Additional services may be  
 255 provided subject to the contract between the department and the  
 256 HMO.

257       b. The department may establish uniform deductibles,  
 258 copayments, coverage tiers, or coinsurance schedules for all  
 259 participating HMO plans.

260       c. The department may require detailed information from  
 261 each health maintenance organization participating in the  
 262 procurement process, including information pertaining to  
 263 organizational status, experience in providing prepaid health  
 264 benefits, accessibility of services, financial stability of the  
 265 plan, quality of management services, accreditation status,  
 266 quality of medical services, network access and adequacy,  
 267 performance measurement, ability to meet the department's  
 268 reporting requirements, and the actuarial basis of the proposed  
 269 rates and other data determined by the director to be necessary  
 270 for the evaluation and selection of health maintenance  
 271 organization plans and negotiation of appropriate rates for  
 272 these plans. Upon receipt of proposals by health maintenance  
 273 organization plans and the evaluation of those proposals, the  
 274 department may enter into negotiations with all of the plans or

275 a subset of the plans, as the department determines appropriate.  
 276 Nothing shall preclude the department from negotiating regional  
 277 or statewide contracts with health maintenance organization  
 278 plans when this is cost-effective and when the department  
 279 determines that the plan offers high value to enrollees.

280 d. The department may limit the number of HMOs that it  
 281 contracts with in each service area based on the nature of the  
 282 bids the department receives, the number of state employees in  
 283 the service area, or any unique geographical characteristics of  
 284 the service area. The department shall establish by rule service  
 285 areas throughout the state.

286 e. All persons participating in the state group insurance  
 287 program may be required to contribute towards a total state  
 288 group health premium that may vary depending upon the plan and  
 289 coverage tier selected by the enrollee and the level of state  
 290 contribution authorized by the Legislature.

291 3. The department is authorized to negotiate and to  
 292 contract with specialty psychiatric hospitals for mental health  
 293 benefits, on a regional basis, for alcohol, drug abuse, and  
 294 mental and nervous disorders. The department may establish,  
 295 subject to the approval of the Legislature pursuant to  
 296 subsection (5), any such regional plan upon completion of an  
 297 actuarial study to determine any impact on plan benefits and  
 298 premiums.

299 4. In addition to contracting pursuant to subparagraph 2.,  
 300 the department may enter into contract with any HMO to  
 301 participate in the state group insurance program which:

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

304 b. Does not currently meet the 25-percent non-  
305 Medicare/non-Medicaid enrollment composition requirement  
306 established by the Department of Health excluding participants  
307 enrolled in the state group insurance program;

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

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

314 e. Meets the minimum surplus requirements of s. 641.225.  
315

316 The department is authorized to contract with HMOs that meet the  
317 requirements of sub-subparagraphs a.-d. prior to the open  
318 enrollment period for state employees. The department is not  
319 required to renew the contract with the HMOs as set forth in  
320 this paragraph more than twice. Thereafter, the HMOs shall be  
321 eligible to participate in the state group insurance program  
322 only through the request for proposal or invitation to negotiate  
323 process described in subparagraph 2.

324 5. All enrollees in a state group health insurance plan, a  
325 TRICARE supplemental insurance plan, or any health maintenance  
326 organization plan ~~shall~~ have the option of changing to any other  
327 health plan that ~~which~~ is offered by the state within any open  
328 enrollment period designated by the department. Open enrollment  
329 shall be held at least once each calendar year.

330           6. When a contract between a treating provider and the  
331 state-contracted health maintenance organization is terminated  
332 for any reason other than for cause, each party shall allow any  
333 enrollee for whom treatment was active to continue coverage and  
334 care when medically necessary, through completion of treatment  
335 of a condition for which the enrollee was receiving care at the  
336 time of the termination, until the enrollee selects another  
337 treating provider, or until the next open enrollment period  
338 offered, whichever is longer, but no longer than 6 months after  
339 termination of the contract. Each party to the terminated  
340 contract shall allow an enrollee who has initiated a course of  
341 prenatal care, regardless of the trimester in which care was  
342 initiated, to continue care and coverage until completion of  
343 postpartum care. This does not prevent a provider from refusing  
344 to continue to provide care to an enrollee who is abusive,  
345 noncompliant, or in arrears in payments for services provided.  
346 For care continued under this subparagraph, the program and the  
347 provider shall continue to be bound by the terms of the  
348 terminated contract. Changes made within 30 days before  
349 termination of a contract are effective only if agreed to by  
350 both parties.

351           7. Any HMO participating in the state group insurance  
352 program shall submit health care utilization and cost data to  
353 the department, in such form and in such manner as the  
354 department shall require, as a condition of participating in the  
355 program. The department shall enter into negotiations with its  
356 contracting HMOs to determine the nature and scope of the data  
357 submission and the final requirements, format, penalties

358 associated with noncompliance, and timetables for submission.  
359 These determinations shall be adopted by rule.

360 8. The department may establish and direct, with respect  
361 to collective bargaining issues, a comprehensive package of  
362 insurance benefits that may include supplemental health and life  
363 coverage, dental care, long-term care, vision care, and other  
364 benefits it determines necessary to enable state employees to  
365 select from among benefit options that best suit their  
366 individual and family needs.

367 a. Based upon a desired benefit package, the department  
368 shall issue a request for proposal or invitation to negotiate  
369 for health insurance providers interested in participating in  
370 the state group insurance program, and the department shall  
371 issue a request for proposal or invitation to negotiate for  
372 insurance providers interested in participating in the non-  
373 health-related components of the state group insurance program.  
374 Upon receipt of all proposals, the department may enter into  
375 contract negotiations with insurance providers submitting bids  
376 or negotiate a specially designed benefit package. Insurance  
377 providers offering or providing supplemental coverage as of May  
378 30, 1991, which qualify for pretax benefit treatment pursuant to  
379 s. 125 of the Internal Revenue Code of 1986, with 5,500 or more  
380 state employees currently enrolled may be included by the  
381 department in the supplemental insurance benefit plan  
382 established by the department without participating in a request  
383 for proposal, submitting bids, negotiating contracts, or  
384 negotiating a specially designed benefit package. These  
385 contracts shall provide state employees with the most cost-

386 effective and comprehensive coverage available; however, no  
 387 state or agency funds shall be contributed toward the cost of  
 388 any part of the premium of such supplemental benefit plans. With  
 389 respect to dental coverage, the division shall include in any  
 390 solicitation or contract for any state group dental program made  
 391 after July 1, 2001, a comprehensive indemnity dental plan option  
 392 which offers enrollees a completely unrestricted choice of  
 393 dentists. If a dental plan is endorsed, or in some manner  
 394 recognized as the preferred product, such plan shall include a  
 395 comprehensive indemnity dental plan option which provides  
 396 enrollees with a completely unrestricted choice of dentists.

397 b. Pursuant to the applicable provisions of s. 110.161,  
 398 and s. 125 of the Internal Revenue Code of 1986, the department  
 399 shall enroll in the pretax benefit program those state employees  
 400 who voluntarily elect coverage in any of the supplemental  
 401 insurance benefit plans as provided by sub-subparagraph a.

402 c. Nothing herein contained shall be construed to prohibit  
 403 insurance providers from continuing to provide or offer  
 404 supplemental benefit coverage to state employees as provided  
 405 under existing agency plans.

406 (i) The benefits of the insurance authorized by this  
 407 section shall not be in lieu of any benefits payable under  
 408 chapter 440, the Workers' Compensation Law. The insurance  
 409 authorized by this law shall not be deemed to constitute  
 410 insurance to secure workers' compensation benefits as required  
 411 by chapter 440.

412 Section 2. This act shall take effect upon becoming a law.