

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 787 CS

Deferred Compensation Programs

**SPONSOR(S):** Mealor

**TIED BILLS:**

**IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Governmental Operations Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Brazzell</u>	<u>Everhart</u>
2) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>Nelson</u>	<u>Hamby</u>
3) <u>Fiscal Council</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
4) <u>State Administration Council</u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5) <u>  </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

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**SUMMARY ANALYSIS**

The bill permits employees of participating local governments to join deferred compensation programs sponsored by the state of Florida through the Department of Financial Services.

Since the program is funded by charges to participants, there is no fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Section 112.215, F.S., authorizes all governments in Florida to create deferred compensation programs for its employees. The state's deferred compensation plan permits an individual employee to defer from federal taxation a portion of gross income up to an annually indexed amount for placement in a fund or funds of a prequalified investment provider. Account earnings similarly are sheltered from federal taxation until a distribution occurs.

The Chief Financial Officer directs the state's deferred compensation program through the Department of Financial Services (DFS), which acts as the sponsoring agency. DFS competitively selects several investment providers along with a third-party financial administrator. The department seeks the advice of State Board of Administration, the investment entity for the State of Florida and the Florida Retirement System, before approving investment vehicles or products. Five of the six participating firms are insurance companies; the sixth is a mutual fund.

The participating state employee bears the investment risk and is responsible for the payment of associated fees and costs charged by the provider. The state's fees and associated participant costs, or total investment management expenses, generally fall within a range between institutional (the lowest), and retail (the highest). The state plan operates under a long-term contract that was last amended in 1997.

The 2001 Survey of 457 Plans by the National Association of Defined Contribution Administrators states that 47 percent of the 36 responding state plans allow local governments to choose to participate in the state plan.

##### **Proposed Changes**

The bill amends s. 112.215, F.S., to permit employees of governmental entities, not just state employees, to participate in the state deferred compensation program (457 plan). The bill defines "governmental entities" as the state; any state agency or county or other political subdivision of the state; any municipality; any state university board of trustees; or any constitutional county officer under s. 1(d), Art. VIII of the State Constitution.

According to staff of the Department of Financial Services, Internal Revenue Service regulations permit 457 plans to include multiple jurisdictions.

#### C. SECTION DIRECTORY:

Section 1: Amends s. 20.121, F.S., to eliminate a specific reference to the Government Employees Deferred Compensation Plan for state employees.

Section 2: Amends s. 20.121, F.S., as amended by ch. 2004-301, F.S., which is effective October 1, 2005, to eliminate a specific reference to the Government Employees Deferred Compensation Plan for state employees.

Section 3: Amends s. 112.215, F.S., to allow governmental entities and their employees to participate in the state's deferred compensation plan.

Section 4: Provides that the act is effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None. This bill does not create, modify, amend or eliminate a state revenue source.

#### 2. Expenditures:

None. This bill does not create, modify, amend or eliminate a state expenditure because participants would pay all fees.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None. This bill does not create, modify, amend or eliminate a local revenue source.

#### 2. Expenditures:

None. This bill does not create, modify, amend or eliminate a local expenditure because participants would pay all fees.

### B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that local governments add the state plan as another option for their employees or drop their vendors and transition to offering solely the state plan, current providers of deferred compensation services to those local governments may lose business, while the providers under the state plan may gain business. However, there is some degree of overlap between vendors in the state and various local government plans.

To the extent that the state plan's fees are lower than the local governments' plans, participants would experience savings.

### C. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

#### 2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Sponsor of the bill may want to clarify at line 55 that the bill contemplates “any municipality of the state.”

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

At the March 30, 2005, meeting of the Governmental Operations Committee, the committee adopted an amendment and reported the bill favorably with a committee substitute.

The amendment broadened the bill to allow other local governmental entities besides counties to participate in the state’s deferred compensation plan. The amendment defined such eligible entities. Additionally, the amendment clarified the options local governments have in regard to establishing or adopting deferred compensation plans.