

# 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.)

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Prepared By: Ways and Means Committee

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BILL: CS/SB 844

INTRODUCER: Ways and Means Committee and Senator Carlton

SUBJECT: State Employee and Retiree Benefits

DATE: March 30, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McVaney</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill addresses miscellaneous issues regarding the pay and benefits offered to state employees.

First, this legislation clarifies an ambiguity by granting the Justice Administrative Commission specific authority to approve a benefits plan for commission staff. Generally, the employees will be granted benefits comparable to the benefits afforded Career Service System employees. The commission has authority to grant certain managerial, policymaking and legal staff greater benefits. The employees of the State Guardian Ad litem Office will be governed by this plan.

Secondly, this legislation continues current co-payments for prescription drugs for the State Employee Health Insurance Plan and continues the current level of employer contributions into a participant's health savings account for the 2006-2007 fiscal year for those employees participating in the high deductible plans.

Third, this legislation restricts an agency from providing pay additives to a cohort of employees unless the Legislature has specifically authorized the pay additives for the specific cohort of employees impacted. This change is intended to clarify that the legislature, rather than an agency, has the sole authority to grant pay increases to broad classes of employees.

Lastly, this legislation prohibits the use of state funds to pay subsistence or per diem related to Class C travel (travel occurring within a single day).

This bill substantially amends ss. 39.8296, 43.16, 110.123, 110.12315, 110.2035, and 112.061 of the Florida Statutes.

## II. Present Situation:

### Justice Administrative Commission and the Statewide Guardian Ad litem Office

#### *Pre-2003 law*

Prior to July 1, 2003, section 43.16, F.S., created the Justice Administrative Commission within the judicial branch. That same law granted the Commission the authority to approve a classification and pay plan for its employees. This authority was consistent with chapter 110, F.S., which established the primary classification plans for state employees: the Career Service, the Selected Exempt Service, and the Senior Management Service.

Section 110.205, F.S., provides that the Career Service includes all positions not specifically exempted from the Career Service. Section 110.205(2)(c), F.S., exempts all members, officers and employees of the judicial branch from the Career Service.

Section 25.382(3), F.S., provides that the compensation of employees of the judicial branch and the establishment of policies relating to the work of those employees, including hours of work, leave, and other matters, shall be determined by court rule as provided in s.2(a), Article V of the State Constitution.

In practice, the Commission adopted its own classification plan and a pay and benefits plan for its employees.

#### *Post-2003 law*

Section 64 of chapter 2003-402, Laws of Florida, amended s. 43.16, F.S., to delete the provision that the commission was a part of the judicial branch. This action presumably shifted the commission from the judicial branch to the executive branch.

Section 38 of chapter 2005-236, Laws of Florida, amended s. 110.205(2), F.S., to specifically exempt from the Career Service those employees of the commission, the Offices of the Public Defender, the Offices of the State Attorney, the regional offices of the capital collateral counsel and the Statewide Guardian Ad litem Office.

Absent a specific grant of authority to the commission to decide the benefits of its employees, there is ambiguity as to the level of benefits afforded the commission employees under the current law. Moreover, the Statewide Guardian Ad litem Office was created in 2003 and no statute specifically provides for the benefit levels for its employees.

#### *Career Service*

The benefits afforded to Career Service employees that differ from Selected Exempt Service and Senior Management Service are annual leave accruals, sick leave accruals and insurance. Career Service employees accrue annual leave at the rate of 8.667 hours to 13 hours per month (depending upon length of service). Sick leave accrues at the rate of 8.667 hours per month (104 hours annually). The employee pays a share of the premium for health insurance and 20% of the

premium for life insurance. Career Service employees are not eligible for the state-sponsored short-term disability program.

#### State Employee Health Insurance Program

Section 110.123, F.S., creates the State Employee Health Insurance Program. As implemented by the Department of Management Services, the program offers four types of health plans: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, or a Health Investor HMO Plan.

The State Employees' PPO plan, consisting of the standard PPO Plan and the Health Investor PPO Plan, is a self-insured health plan administered by Blue Cross Blue Shield of Florida. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions.

Each HMO is a self-administered, pre-paid health plan that provides health services to people who live or work within the HMO's service area. Five HMO's provide coverage in various geographic regions. The standard HMO plan providers are VISTA, Capital Health Plan, AvMed, United Health Care, Florida Health Care Plan. The Health Investor HMO plan providers are VISTA, AvMed, and United.

#### *Prescription Drug Benefits*

Plan participants are covered under a comprehensive Prescription Drug Program. The program has two components: a network-based retail program and a mail order pharmacy program primarily for maintenance drugs.

For the Standard HMO and Standard PPO plans, retail drug co-payments are \$10 for generic drugs, \$25 for preferred brand name, and \$40 for nonpreferred brand name drugs. Co-payments for the Standard HMO and Standard PPO mail order programs are \$20 for generic drugs, \$50 for preferred brand name drugs, and \$80 for non-preferred brand name drugs.

For the Health Investor HMO and Health Investor PPO, after satisfying the appropriate individual or family annual deductible, the network coinsurance financial responsibilities for retail and mail order prescriptions are 30% for generic and preferred brand name drugs and 50% for nonpreferred brand name drugs.

The co-payments set in statute expire December 31, 2006.

#### *Health Savings Accounts*

A state employee participating in either Health Investor plan is eligible to receive contributions into the employee's health savings account. The participant may draw upon these funds to meet the out-of-pocket medical and pharmacy expenses.

The annual contribution from the State Employee Health Insurance Trust Fund is \$500 for single coverage and \$1000 for family coverage. These contributions are made in equal monthly installments throughout the plan year. These contributions are funded as part of the employer-paid premium for health insurance coverage.

The authority to make employer-paid contributions into a participant's health savings account expires June 30, 2006.

### Pay Additives

Section 110.2035, F.S., grants to the Department of Management Services the authority to set guidelines on the administration of pay additives by executive branch agencies. Pay additives include shift differentials, on-call fees, hazardous-duty pay, salary increase and decrease corrections, lead-worker pay, temporary special duties pay, trainer-additive pay, competitive area differentials, and critical market pay. Pursuant to Rule 60L-32.0012, Florida Administrative Code, these additives are supposed to be temporary increases to base rate of pay.

In recent years, some agencies have used these temporary pay additives to adjust the base rate pay for particular groups of employees. At times, these agency actions have been contrary to a decision of the Legislature to not provide special pay adjustments to a particular group of employees.

### Class C Travel

Section 112.061, F.S., applies to all "public agencies," which are defined as, "[a]ny office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or any other separate unit of government created pursuant to law."

A "traveler" for a public agency is defined as, "a public officer, public employee, or authorized person, when performing authorized travel."<sup>1</sup> The term "authorized person" is defined to mean a person:

- Other than a public officer or employee as defined herein, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties;
- Who is called upon by an agency to contribute time and services as consultant or adviser;  
or
- Who is a candidate for an executive or professional position.<sup>2</sup>

Travel by public agency travelers is categorized. "Class A" travel means continuous travel of 24 hours or more away from official headquarters. "Class B" travel means continuous travel of

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<sup>1</sup> Section 112.061(2)(f), F.S.

<sup>2</sup> Section 112.061(2)(e), F.S.

less than 24 hours that requires an overnight absence from official headquarters. "Class C" travel means day trips, which do not require an overnight stay.<sup>3</sup>

For overnight Class A or Class B travel, the traveler has the option of receiving \$50 per diem, or if actual expenses exceed \$50, the traveler may receive the actual cost for overnight lodging plus meal amounts of \$3 for breakfast, \$6 for lunch, and \$12 for dinner. For class C travel, the traveler may only receive the aforementioned meal amounts. Payments for Class C travel are taxable as income, while payments for Class A and B travel are not.<sup>4</sup>

Since the 2000-01 fiscal year, the Legislature has prohibited reimbursement of per diem and meals related to Class C travel for state travelers in the annual bill implementing the General Appropriations Act.

### III. Effect of Proposed Changes:

**Section 1** amends s. 39.8296, F.S., to codify the current practice that the employees of the Statewide Guardian Ad litem Office are covered by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

**Section 2** amends s. 43.16, F.S., to grant the Justice Administrative Commission specific authority to approve a salary and benefits plan for commission staff. Generally, the employees will be granted benefits comparable to the benefits afforded Career Service System employees. The commission has authority to grant certain managerial, policymaking and legal staff greater benefits. Annually, the commission must submit a report listing the positions that receive the higher level benefits. Any change in the level of benefits or the positions receiving the higher level benefits is subject to the notice and objection procedures of s. 216.177, F.S.

**Section 3** amends s. 110.123, F.S., to provide the level of the monthly employer contribution into a participant's health savings account for the 2006-2007 fiscal year. It will remain at the current level of \$41.66 for individual coverage (\$500 annually) and \$83.33 for family coverage (\$1000 annually).

**Section 4** amends s. 110.12315, F.S., to continue, for the 2006-2007 fiscal year, the co-payments for the prescription drug program administered for the State Employee Health Insurance Program at the level currently in place for the 2005-2006 fiscal year.

**Section 5** amends s. 110.2035, F.S., to restrict an agency from providing pay additives to a cohort of employees unless the Legislature has specifically authorized the pay additives for the specific cohort of employees impacted. This change is intended to clarify that the legislature, rather than agency, has the sole authority to grant pay increases to broad classes of employees. The bill requires the Department of Management Services to consult with the Governor's Office and the Legislature regarding pay surveys. The bill also requires the employing agency to advise the Governor's Office and the Legislature in writing of any plan for implementing pay additives

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<sup>3</sup> Section 112.061(k) – (m), F.S.

<sup>4</sup> The per diem rates set forth apply only to travel within the United States. Foreign travel per diem rates are governed by the federal publication entitled, "Standardized Regulations (Government Civilians, Foreign Areas)." Section 112.061(3)(e), F.S.

prior to the implementation date. The Department of Management Services is required to submit to the Governor's Office and the Legislature an annual summary of the pay additives.

**Section 6** amends s. 112.061, F.S., to prohibit the use of state funds to pay subsistence or per diem related to Class C travel (travel occurring within a single day).

**Section 7** provides that this act shall take effect July 1, 2006..

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This legislation continues current programs within the State Employee Health Insurance Program. The legislation also prohibits the use of state funds to reimburse per diem or subsistence related to Class C travel for any traveler, regardless of the employer.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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